

Running an incorporated association in Victoria

A guide for the secretary and office bearers

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Glossary

Key words and abbreviations

Glossary

Key words and abbreviations

AAS	refers to Australian Accounting Standards and is relevant to the review or audit of an incorporated association's financial statements
AGM	refers to an annual general meeting
AIR Act	refers to the <i>Associations Incorporation Reform Act 2012 (Vic)</i>
annual statement	is a document that the secretary of an incorporated association must lodge with CAV within one month of each annual general meeting (unless an extension is granted, or it is a registered charity with the Australian Charities and Not-for-profits Commission that has an exemption from reporting)
association or incorporated association	in this guide refers to an association which is incorporated in Victoria
ATO	refers to the Australian Taxation Office
auditor	of an organisation is an accountant (who is independent from the organisation) whose job is to check and confirm the material accuracy of the organisation's financial records (commonly, once a year) and provide an auditor's report. Some organisations are required to have their accounts audited, either under the AIR Act (for example, for 'tier three associations') or for other reasons, such as funding agreements.
ballot	is a method of voting in elections for office bearers and members of the committee of an organisation (like voting in an election for government). A ballot is often conducted confidentially, in which case it is called a 'secret ballot'.
bankruptcy	is a legal status that offers a person protection from further action against them by creditors (that is, people to whom the person owes money)
CAV	refers to Consumer Affairs Victoria, which is the Victorian government agency responsible for registering and regulating incorporated associations in Victoria.
committee	means the governing body of an incorporated association, sometimes called the 'board', 'management committee', 'committee of management' or 'council'. The committee is responsible for overseeing the running of the organisation.
committee members	are members of the committee of an incorporated association – commonly includes office bearers (for example treasurer or president) and a small group of other people (often called 'ordinary committee members'). Committee members may or may not be members of the organisation (depending on the organisation's rules).



common law	means the law developed by the courts, sometimes called 'judge-made law' (as compared to legislation or statutes, which is law made by Parliament)
convene	means 'arrange' or 'call people together' – for example, the chairperson of an incorporated association may convene a meeting of the committee.
Corporations Act	means the <u><i>Corporation Act 2001 (Cth)</i></u>
count	is a method for voting on a motion at a meeting. In a count, members vote by filling out a voting paper and putting it in a box or container. These papers are then counted by those organising the count, but are not shown to other voters. A member can ask for a vote to be by way of a count rather than the usual method of a show of hands – this is called 'demanding' a count. The AIR Act and an organisation's rules sets out how a count can be demanded. When a count is validly demanded, the result on the count will override a vote on a show of hands.
financial statement	is a document (or set of accounts or reports) submitted to members of an incorporated association at the AGM, as required by Part 7 of the AIR Act. The AIR Act requires that the financial statement contains particular information about the financial activities of the organisation in its previous financial year.
Fundraising Act	means the <u><i>Fundraising Act 1998 (Vic)</i></u> .
general meeting	means a meeting of the members of the incorporated association, which is convened using the procedures for general meetings in the association's rules. These procedures include giving notice of the meeting to members. General meetings cover both the 'annual general meeting' and any 'special' general meetings convened throughout the year.
GST Act	means <u><i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i></u>
legislation	means laws that have been enacted by Parliament. A piece of legislation is called an Act or statute. The names of all Victorian Acts include the year that the law was passed and the letters '(Vic)' appear following the year – for example, the <u><i>Associations Incorporation Reform Act 2012 (Vic)</i></u> .
minutes	are a formal written record of the matters discussed and decisions made at a general meeting of the members of an association or a meeting of the committee
model rules	are the rules set out in Schedule 4 of the Regulations that can be adopted (in whole or part) by an organisation when it first becomes incorporated (registered), or at a later date. The model rules may be modified over time by legislation (for example, through changes to Schedule 4 of the Regulations).
motion	means a proposal that a person puts at a meeting, so that some action is taken or decision made about an issue. Technically, when a person 'moves' a motion, another person must 'second' it. (Sometimes a person then moves to change (amend) the motion, and it is up to another person to second the amendment). Once the wording of the motion is settled, a vote is taken and, if passed, the motion becomes a resolution.
office bearer or officer	means a person who is appointed to a special position on the committee. The office bearers of most organisations are the chairperson (or president), deputy chairperson (or vice-president), secretary and treasurer.
office holder	is defined in section 82 of the AIR Act to include committee members, the secretary and any person (including an employee) who is involved in or influences key decisions that affect the operations or affairs of an incorporated association



Old Act	means the <i>Associations Incorporation Act 1981 (Vic)</i> , which has been replaced by the <i>Associations Incorporation Reform Act 2012 (Vic)</i>
Parliament	in Victoria is the legislative body of the state of Victoria and consists of two Houses (the Legislative Assembly and the Legislative Council), and the King, represented in Australia by the Governor of Victoria. There are parliaments in each state and territory as well as for the Commonwealth of Australia.
policy	(in relation to an organisation) is a particular way of dealing with an issue or area of activity, which the organisation has agreed on. Policies are usually (but not always) written down. An organisation may have policies about, for example, recruitment of new committee members, procedures for meetings or dispute resolution. The policies of an organisation cannot override legal obligations in the AIR Act or the organisation's rules, but they can supplement them.
proxy	is someone who is authorised to vote on behalf of another person at a meeting (if that person cannot attend the meeting personally). If proxies are allowed, there must be a provision in the organisation's rules which sets out how proxies operate.
purposes	(sometimes called objects) of an organisation are found in the rules and set out what the organisation has been established to do. The purposes may also identify for whose benefit the organisation operates. Organisations incorporated following the start of the AIR Act must include their purposes in their rules. Before the start of the AIR Act, the purposes of an organisation were set out in a separate statement.
quorum	is the minimum number of people that need to be present at a meeting for that meeting to proceed
register	is a list, database or some similar record which contains information about certain matters, members or documents. For example, an organisation will have a register of members which sets out the names and addresses of all its members (along with certain other information).
Registrar	refers to the Registrar of Incorporated Associations (incorporated by CAV). The role of the Registrar is to ensure compliance with the Act and Regulations. The Registrar has certain enforcement powers, including the power to authorise the issuing of infringement notices for offences under the Act or Regulations
Register of Incorporated Associations	is the register which contains information about every incorporated association in Victoria. It is maintained by CAV. Some parts of the register are available on the CAV website, and you may purchase extracts from it about your organisation or other organisations.
Regulations	means the <i>Associations Incorporation Reform Regulations 2023 (Vic)</i>
resolution	means a decision that is made at a meeting. A 'resolution' usually refers to an 'ordinary resolution'. An ordinary resolution is the result of a motion (or an amended motion) that is put before a meeting and is passed by a simple majority vote, at that meeting. See below for a description of a 'special resolution'.
rules or constitution	are the governing document of an incorporated association. The rules set out the organisation's purposes and the procedures for running the organisation. An association can choose to adopt the model rules (in Schedule 4 of the Regulations) or write its own rules (which must be approved by CAV). Every incorporated association must have rules which cover the matters listed in Schedule 1 of the AIR Act.
Schedule	refers to a Schedule (and the items, or paragraphs, within it) of the AIR Act or the Regulations.



secretary	refers to the secretary of an incorporated association, appointed in accordance with the requirements of the AIR Act and the organisation's rules.
simple majority	is when more than half (more than 50%) of the people present at a meeting and voting on a motion vote for (or 'in favour of') the motion being passed. When a simple majority votes in favour of a motion it becomes a resolution.
special general meeting	is a type of 'one-off' general meeting which is convened for a particular reason or purpose (compared to an 'annual general meeting' which is compulsory and must be held each year). Under the model rules, any general meeting which is not an 'annual' general meeting is a 'special' general meeting.
special resolution	<p>is a resolution required for certain important decisions that are made by members.</p> <p>Special resolutions must be conducted in accordance with the procedures in section 64 of the AIR Act. Section 64 includes a requirement that a member must be given at least 21 days' notice of the meeting at which the special resolution will be proposed.</p> <p>To pass the special resolution, at least three quarters (75%) of members who are entitled to vote, and who actually do vote at the meeting (either in person or by proxy, if allowed), must vote in favour of the resolution. This is known as a 'special majority' (in contrast to a 'simple majority', which only requires more than half (more than 50%) of the people present and voting to vote in favour of a resolution).</p> <p>The AIR Act requires organisations to seek a special resolution when an organisation makes the following important decisions:</p> <ul style="list-style-type: none">• changing the name of the organisation, or its rules or purposes• amalgamating with one or more other organisations, and• winding up the organisation voluntarily or seeking cancellation by CAV
statutory duties	are legal obligations and responsibilities set out in legislation. For example, the members of the committee and office holders of an incorporated association have statutory duties under the AIR Act – these statutory duties relate to how they make decisions about the running of the organisation.
statutory manager	is a person who is appointed by the court to take over the running of an incorporated association if the court considers that there are concerns about how the organisation is being managed. CAV can apply to the Magistrates' Court to have a statutory manager appointed. The court can appoint a statutory manager if it is in the interests of the organisation's members, its creditors (those who the organisation owes money to), or the public.
tier one association	is an incorporated association that has a total yearly revenue (or income) of less than \$500,000, (or an association declared to be tier one by CAV).
tier two association	is an incorporated association that has a total yearly revenue (or income) of between \$500,000 and \$3 million, (or an association declared to be tier two by CAV).
tier three association	is an incorporated association that has a total yearly revenue (or income) of greater than \$3 million.
wind up or winding up	refers to the ending of an incorporated association – this can be done voluntarily by the organisation or, in certain circumstances, by a court or CAV. When an incorporated association is wound up, it stops existing.



Part 1

Overview of an incorporated
association

Overview of an incorporated association

This part of the guide contains background information to help you understand your organisation, the roles of the members, committee and secretary, and how to use this guide.



Disclaimer

This guide provides information on running an incorporated association in Victoria. This information is intended as a guide only and is not legal advice. If you or your organisation has a specific legal issue, you should seek legal advice before deciding what to do.

Please refer to [the full disclaimer](#) that applies to this guide.

Summary of key points in this part of the guide

Who is this guide for?	This guide is primarily for secretaries of incorporated associations. This part of the guide provides an overview of an incorporated association.
How to use this guide	This guide is in nine parts and includes a range of practical tools and other links.
What is an incorporated association?	An incorporated association is the most common (but not the only) legal structure used by not-for-profit organisations. Victorian incorporated associations must operate in accordance with the requirements of the <i>Associations Incorporation Reform Act 2012 (Vic) (AIR Act)</i> .
What are the reporting obligations of an incorporated association?	Certain information must be reported to CAV under the AIR Act, including a yearly (annual) statement on the association's financial situation, and when changes occur (for example, when a new secretary is appointed, or an organisation's details change). Reporting obligations for Victorian incorporated associations that are registered with the Australian Charities and Not-for-profit Commission (ACNC) changed in July 2018. See part 8 of this guide: Reporting to Consumer Affairs Victoria for more information.
What are the rules and purposes of an incorporated association?	Every incorporated association has its own 'rules' which set out in detail the procedures for running the organisation. Every association's rules must also contain a statement of purposes, which sets out the organisation's objectives. There is a tool at the end of this guide to help



What is the role of members of an incorporated association?

you work out what the rules of your organisation are – it is essential to be familiar with the rules.

Members of an incorporated association have the power to make certain decisions about the organisation. In particular, they usually appoint the members of the committee.

What is a committee?

The committee of an incorporated association (its governing body) is responsible for overseeing how the organisation operates. There are a number of special positions on the committee. Often the secretary is a member of the committee.

How does the committee differ from the 'managers' of an association?

The committee of an incorporated association sets the overall direction of (governs) the association. In larger associations, there may be senior staff (for example, the CEO, operations manager and finance manager) who are responsible for the day-to-day running of the association.

Who is the secretary and what do they do?

Every incorporated association must have a secretary. The secretary has legal responsibilities for submitting documents to CAV and is the official contact person for the organisation.

Where can I go for information and assistance?

This guide sets out information about running an incorporated association.

We have further resources for incorporated associations on [our website](#).



Tip

In November 2012, the AIR Act replaced the *Associations Incorporation Act 1981 (Vic)* (**Old Act**). The AIR Act changed the laws regulating Victorian incorporated associations.

Under the AIR Act, the term 'secretary' replaced the role of 'public officer' that existed under the Old Act. The responsibilities that fell on the public officer under the Old Act are now carried out by the secretary. For more information about the role of the secretary, see [part 3 of this guide: Secretary's Legal Role, Powers and Duties](#).

There are also new matters that must now be covered by an association's rules. Associations that were using the model rules under the Old Act are now subject to the model rules under the AIR Act. Associations that adopted their own rules rather than the model rules should review their rules to ensure they are compliant with the requirements of the AIR Act.

Who is this guide for?

This guide is designed to help the secretary and others in your organisation, by alerting you to legal obligations and offering 'good governance' tips and tools for running an incorporated association in Victoria.

It doesn't matter whether you are a volunteer in a small support group, or a paid officer of a large social club – any person involved in running an incorporated association in Victoria can benefit from this guide.

This guide may also be useful for other members of your organisation's committee (sometimes known as the 'board'), as well as people and organisations who work with incorporated associations (such as peak bodies, advocacy groups), and lawyers assisting incorporated associations.



How to use this guide

This guide is published by Not-for-profit Law, Justice Connect's specialist service for charities and community groups.

The guide has nine parts and contains practical tools – such as sample documents, checklists, registers and flowcharts – to help you in your role. These are located in [part 9 of this guide: Tools](#).

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What is an incorporated association?

An incorporated association is the most common (but not the only) legal structure used by not-for-profit groups in Victoria. There are other legal forms used by not-for-profit groups, such as corporations (also called companies) and cooperatives. Different laws and rules apply to these other legal structures – we have not covered them in this guide.

An incorporated association is a legal entity that stays the same even if its members change. Subject to its rules, it can do the following things in its own name – accepts gifts and bequests, buy and sell property, invest and borrow money, open a bank account, sue and be sued and take out public liability insurance. The members and office bearers of the association are usually protected against personal liability and responsibility for the organisation's debts.

Every Australian state and territory has its own laws to regulate incorporated associations. This guide deals with associations incorporated in Victoria.



Tip

For more information on what incorporation means, and different types of legal structures used by not-for-profit groups, see our [resources on getting started](#)

How do you know if an organisation is an incorporated association?

Incorporated associations must have the word 'Incorporated' or the letters 'Inc' after their name.

This signifies to the public that the organisation is an incorporated association and is therefore bound by certain legislation and rules, such as the AIR Act.

This is similar to the requirement imposed on companies by the Corporations Act to have the words 'Limited or Ltd' or 'Pty Ltd' at the end of their name under the Corporations Act 2001 (unless they are exempt).



Tip

If you are not sure whether your organisation is an incorporated association in Victoria, you can search [the Register of Incorporated Associations on the CAV website](#)

In Victoria, the AIR Act is the main piece of legislation regulating incorporated associations. The AIR Act covers the establishment, operation and ending (or dissolution) of an incorporated association.



The Regulations set out further details about the legal requirements for operating an incorporated association in Victoria. The Regulations also set out the model rules for incorporated associations. Your association can use the model rules, or prepare its own rules, or use a combination of the two. More details on rules are set out below.

It's good practice to keep a copy of the current AIR Act and Regulations with your organisation's official documents.

There are other laws which apply to incorporated associations – for example, laws dealing with occupational health and safety, workplace relations, tax, advertising and fundraising



Tip

The AIR Act gives powers and responsibilities to the 'Registrar' of Incorporated Associations. In practice, the functions of the Registrar are carried out by CAV.



[Our website](#) has useful resources and information on a range of topics and laws to help not-for-profit organisations.

What does Consumer Affairs Victoria do?

Consumer Affairs Victoria (**CAV**) has a number of legal functions relating to incorporated associations. These include:

- maintaining the Register of Incorporated Associations (a list of all incorporated associations in Victoria)
- approving applications for incorporation
- approving rules drafted by incorporated associations
- receiving annual statements from organisations (see [part 8 of this guide: Reporting to Consumer Affairs Victoria](#))
- approving important changes to an organisation (such as changes to an organisation's rules, statement of purposes or name)
- cancelling an organisation's incorporation
- monitoring and investigating an organisation's compliance with the AIR Act and Regulations (and taking other action if necessary), and
- imposing fines (or taking other action if necessary) where there has been a failure to comply with the AIR Act

You can contact CAV if you need help with:

- forms to be lodged with CAV
- requests for extension of time to lodge forms
- information and assistance to help your organisation's rules comply with the AIR Act
- general advice about your obligations under the AIR Act

However, CAV is **not** able to:

- give legal advice or pre-approve proposed changes to your organisation's rules
- provide advice about how to interpret your organisation's rules
- resolve internal disputes within your organisation



You can find more information about CAV's role on the [CAV website](#).

What are the reporting requirements of an incorporated association?

An incorporated association is required to report to CAV:

- every year by lodging an annual statement (see the caution box below and [part 8 of this guide: Reporting to Consumer Affairs Victoria](#))
- whenever a new secretary is appointed, or if the existing secretary's details change (see [part 2 of this guide: Appointing and Removing a Secretary](#))
- if the address or name of the association change, and
- when certain key decisions are made by the association – for example, if the association passes a special resolution to change its name or its rules (see [part 5 of this guide: Annual General Meetings](#) and also [part 6 of this guide: Special General Meetings](#))



Caution

Reporting obligations for Victorian incorporated associations that are also registered charities with the Australian Charities and Not-for-profits Commission (**ACNC**) changed on 1 July 2018.

See [part 8 of this guide: Reporting to Consumer Affairs Victoria](#) for more information.

The rules and purposes of an incorporated association

Every incorporated association must have its own set of 'rules' (sometimes called a 'constitution'). The rules set out the procedures for running the organisation. Your organisation must follow its own rules.

The AIR Act requires that the rules must cover certain matters – these matters are listed in Schedule 1 of the AIR Act. Your organisation's rules must also be consistent with certain laws, including the AIR Act. Apart from these matters, your organisation has a fair degree of flexibility in establishing its rules.



Why follow the rules?

The rules are a legal contract between the organisation and its members and are legally enforceable by members of your organisation or by CAV on behalf of the members.

There are other good reasons for following your organisation's rules. Your organisation's rules allow the members of your organisation to know how the organisation is to be run and managed, and how decisions will be made. It also means they can contribute to (or raise concerns about) the organisation's decision-making, where appropriate.



Tip

The rules of the association are a key source of information for secretaries. It's important that you read your organisation's rules, have an up-to-date copy handy and make sure they are consistent with the requirements of the AIR Act.

Every organisation incorporated after the start of the AIR Act must have its 'purposes' set out in its rules.

The purposes set out what the organisation is established to do, and may also identify for whose benefit the organisation operates.



Remember

If you don't follow your organisation's rules and purposes you can be challenged by a member of the organisation for failing to do so.

Under section 67 of the AIR Act, CAV can apply to the Magistrates' Court to enforce the rights and obligations of members of an association under the rules. The association or member can also apply to the Magistrates' Court to enforce members' rights and obligations.

How to find out what an organisation's rules are

An association has two choices for determining what rules will apply to it. It can either:

- adopt the 'model rules', or
- write its own rules, by drafting new rules from scratch or by making changes to the model rules



Note

If an organisation adopts its own rules, those rules must cover all the required items listed in Schedule 1 of the AIR Act.

An organisation must lodge its rules with CAV when it first applies to CAV to be registered as an incorporated association. Once registered, an organisation can change its rules by its members passing a special resolution approving the change. An association's rules must always be lodged with, and approved by, CAV in order to be valid. This means that each time an organisation changes its rules, it must lodge them with CAV for approval.

If you are unsure what your association's current rules are, you can contact CAV to get a copy of them.

What are the 'model rules'?

The model rules are an example set of rules that comply with the AIR Act – they are the default position if an association does not prepare its own rules. The model rules are set out in Schedule 4 of the Regulations and are also available [on the CAV website](#)

Many associations choose to adopt the model rules when they become incorporated. An association that drafted its own rules at incorporation can also convert to the model rules after it incorporates (although this

is less common). Converting to the model rules requires a special resolution of members, as it is a change to the rules.



Tip

The model rules can seem like a good option if your organisation doesn't want to draft its own rules. However, the model rules are not 'model' in the sense of being the 'best fit' for every organisation – for example, if your organisation wants to access certain tax concessions it may need to consider whether the model rules meet the necessary tax law requirements.

Alternatively, your organisation may have specific requirements for membership or, if your organisation is a large organisation, it may wish to establish branches. Neither circumstance will be covered by the model rules. In these circumstances, the organisation should prepare its own rules that covers its specific requirements.

Note – many organisations use the model rules as the starting point for their own rules and then modify them to the extent necessary to cover their specific requirements.

If an organisation only modifies the model rules to reflect of the name of the organisation and the organisation's financial year and purposes, the organisation will be deemed to have adopted the model rules.

However, if an organisation makes any additional amendments to the model rules – even if these are only minor variations - it will be deemed to have adopted its own rules rather than the model rules.



Note

The model rules change over time. If your organisation has adopted the model rules, any changes to the model rules in full (without any amendments other than to name, financial year and purposes), made by the Victorian Parliament over time will automatically apply to your organisation automatically.

New model rules were introduced in November 2023 by the *Associations Incorporation Reform Regulations 2023 (Vic)*. These new model rules replaced the model rules in Schedule 4 of the AIR Act.

Check the latest version of the model rules to ensure that your organisation is following the current requirements.

Writing your own rules

If your organisation has written its own rules, you should make sure that your rules cover all the matters required by Schedule 1 of the AIR Act (as amended from time to time). For more information on making sure your rules address all the scheduled items, go to our [webpage 'Managing an organisation's rules or constitution'](#).



Note

If your organisation's rules don't cover an item in Schedule 1 of the AIR Act, the relevant model rule that covers the particular item will be automatically included in your rules by operation of section 48(3) of the AIR Act.

For example, if your association's rules don't specify the number of days' notice required for a general meeting, then rule 33 of the model rules will apply so that at least:

- 14 days' notice is required, or
- 21 days' notice if a special resolution has been proposed

The process of 'reading in' model rules can become very confusing, so it is better to make sure your own rules cover all the required items listed in Schedule 1 of the AIR Act.



Why follow the rules?

The rules are a legal contract between the organisation and its members and are legally enforceable by members of your organisation or by CAV on behalf of members.

There are other good reasons for following your rules. Your organisation's rules allow the members of your organisation to know how the organisation is to be run and managed, and how decisions will be made. It also means they can contribute to (or raise concerns about) the organisation's decision-making where appropriate.



Caution

The rules of your association can not override the AIR Act or any other laws.

For example, if there's an inconsistency between the AIR Act and a rule of your organisation, the rule has no effect (section 48(4) of the AIR Act). If the AIR Act says something must be covered in your rules, but your rules do not cover it, then the relevant part of the model rules will fill the 'gap' automatically as described in the note above (section 48(3) of the AIR Act).

Your organisation may wish to draft its own rules, but also use some of the model rules. In these circumstances it's a good idea to write out the model rule in full in your association's rules rather than just including a reference to the relevant model rule in the Regulations. This is because the model rules in the Regulations might change over time and the latest version of the model rules in the Regulations will not always be the same as the model rules your organisation adopted. It can be confusing to read an association's rules if a reference to a model rule is out of date.

When reviewing your association's rules, you should make sure that you are reviewing the correct version. You can request a copy of the association's rules from CAV to make sure you have the most up-to-date version.



Caution

If your organisation has written its own rules, or made changes to the model rules, you must submit a copy of your rules to CAV for approval. Your organisation's own rules are not official (legally binding) until they are approved by CAV.



Tool 1

To find out what your organisation's rules are, follow the steps in [Tool 1: Flowchart for working out your association's current rules](#) in part 9 of this guide.

What is the role of members in an incorporated association?

The members of an incorporated association have certain rights and responsibilities under the AIR Act, the organisation's rules, and the common law.

Importantly, members of the organisation can attend general meetings and vote on matters such as:

- electing the committee
- changing the organisation's name, rules or purposes
- amalgamating the organisation with one or more other associations
- removing an auditor, and
- winding up (ending) the organisation voluntarily

An association's rules must set out the procedures for conducting the 'annual general meeting' and 'special general meetings' (formal meetings where the members can make official decisions). Both annual and special general meetings are described as 'general meetings' in the model rules. More details on annual general meetings and special general meetings are set out in [part 5 of this guide: Annual General Meetings](#) and [part 6 of this guide: Special General Meetings](#).

An association's rules must also set out the rights, obligations and liabilities of members.

These may include:

- a member's right to participate in general meetings, elect the committee and have access to certain records of the association, including the members' register
- any fees, subscriptions, or other amounts to be paid by members
- a member's obligation to comply with the rules and support the purposes of the association, and
- an acknowledgement that a member is not liable to contribute to the debts and liabilities of the association by reason only of their membership

The members of an incorporated association are not responsible for making decisions about the overall running of the organisation – that is the job of the committee (see below – [What is a committee?](#)).

Some associations may include rules requiring the committee to get member approval of certain decisions (for example, investment plans, or entering into contracts over a certain dollar value).

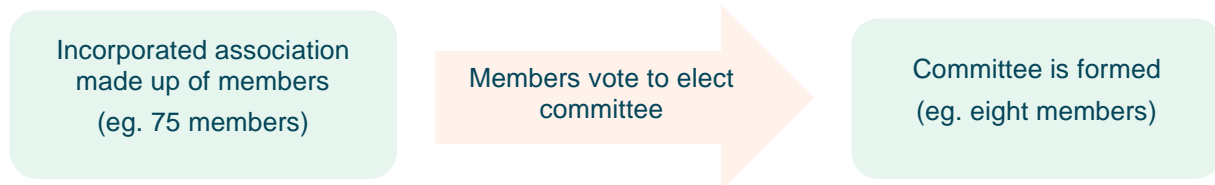
The members may be (and often are) involved in carrying out the organisation's activities (for example, helping teams with coaching), but this is different to having the **legal** responsibility for management of the association. Sometimes the line between practical responsibility and legal responsibility can seem unclear or artificial. The rules are the best place to turn to figure out where the line is. If the rules do not specifically state that a decision must be made by the members, then it is likely to be a legal responsibility of the committee. The committee may choose to delegate 'the doing' to others (for example, involve members, volunteers or paid staff to actually do what is needed), but it still remains ultimately responsible. We explain why understanding this is important below at [Governance vs management – what is the difference?](#)

What is a committee?

Managing an incorporated association is the responsibility of an elected committee. Sometimes other names are used for this governing body, such as the 'board', 'council', or 'committee of management'.

In many cases, the members of the organisation elect a small group of people, who are themselves members of the association, to be on the committee.

Electing a committee (example)



In some organisations, all the members of the association are also members of the committee. This is not against the law – it often happens in small associations or when the organisation first begins.

If you are in an association where all the members of the association are also on the committee, it can seem strange to separate the management of the organisation (ie, the legal responsibility) from the actual 'doing' of the work (the delegated 'practical' responsibility). However, it is still important to understand the separate (legal) role of the committee.

Governance vs management – what is the difference?

Good governance practices are crucial to an association's ability to function, to achieve its objects, and to comply with all the legal, ethical and operational requirements of an incorporated association.

Incorporated associations, especially small associations, often struggle to distinguish between:

- **governance:** the legal role and responsibility of an association's committee to govern the association, and
- **management:** the operational role and responsibility of certain staff, or volunteers to manage the association.

While these two functions may be performed by the same group of people, distinguishing between issues of strategic or legal governance and day-to-day management is important. This is because particular legal duties apply to the governance, but not the management, of incorporated associations.

Governance generally refers to overseeing the direction and control of an association, including overseeing the affairs of the incorporated association and making sure its legal obligations are met. The committee is responsible for the governance of the association. Members of the committee have particular legal duties under the AIR Act, such as the duty of care and diligence and the duty to act in good faith. CAV is responsible for enforcing these legal duties.

Management generally refers to making decisions about the day-to-day running of the association, based on decisions made by the committee (such as a strategy). In large associations the management team may include a CEO, finance manager or operations manager. In smaller associations the management team may consist of a handful of key volunteers. Normally these people do not need to comply with the same legal duties as the committee. However, if a manager or key volunteer is involved in making key decisions that affect the operations of an association or who is influential in the affairs (financial or otherwise) of the association then they may also have to comply with certain legal duties.

Are there special positions on the committee?

There are usually a number of special positions on a committee.

The people who take on these positions on the committee are called 'officers' or 'office bearers' or 'the executive' of the association.

The titles of positions on a committee will vary between associations and will be usually set out in the rules. Some common titles and their traditional roles are explained briefly below:

- **the chairperson** (or president) runs meetings and usually represents the organisation at public events

- **the deputy chairperson** (or vice-president) takes on the role of the chairperson when the usual chairperson is not available
- **the treasurer** (or financial officer) deals with the financial affairs of the organisation, and
- **the secretary** reports to CAV, organises meetings, takes the minutes of meetings, deals with documents and maintains records of the association



For more information about the role of the secretary, see [part 3 of this guide: Secretary's Role, Powers and Duties](#).

The committee may have other committee members who are not office bearers. These are sometimes called 'ordinary committee members'.

The legal duties under the AIR Act apply to both office bearers and ordinary committee members.

Who is the secretary?

The secretary of an incorporated association has responsibilities under the AIR Act for submitting forms and documents to CAV and is the primary contact person for the association. The secretary also performs the administrative functions of organising meetings and minutes, handling membership and maintaining important documents and registers of the organisation.

The secretary may, but does not need to, be part of the committee. For example, the secretary could be an employee of an association (for instance, the general manager), who is neither a member of the committee nor a member of the association. Under the model rules the secretary is a member of the committee. In addition, the secretary is an 'office holder' under the AIR Act – see further below ['Who is an office holder?'](#)



For more information about who can be a secretary, how they are appointed, and what happens next, see [part 2 of this guide: Appointing and Removing a Secretary](#).

Who is an office holder?

The AIR Act uses the term 'office holder' to describe the people in an organisation who have certain **legal** duties to the organisation that must be met. This use of the term 'office holder' is different to the use of the term to describe 'office bearers' (people on a committee who hold an 'office' like secretary or treasurer) as described above.

Is there a difference between 'committee member' and 'office holder'?

The term 'office holders' is defined under the AIR Act. It includes committee members (both ordinary members and members holding an office, like a Treasurer) – plus some other people who may not be on the committee including:

- the secretary (whether or not the secretary is a member of the committee), and
- a person, including an employee of the association, who is involved in key decisions that affect the operations of an association or who is influential in the affairs (financial or otherwise) of the association

Special legal duties apply to office holders and these are set out in the AIR Act.

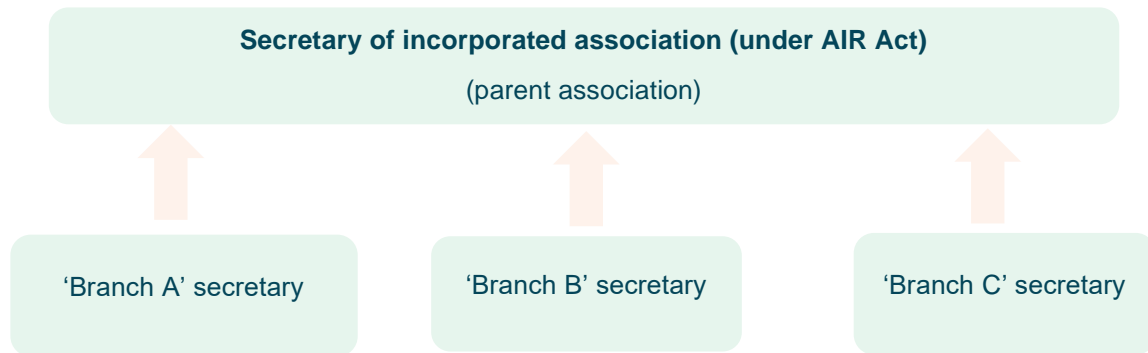


For more information about legal duties of office holders, see [our Duties Guide](#).

Branches and branch secretaries

If an organisation is large, it may have branches. Each branch will usually have its own branch secretary (and possibly its own committee), reporting to the parent organisation (see the diagram below).

In most cases, branches are not separately incorporated under the AIR Act, the rules of the parent organisation control the branch, and a member of the branch is a member of the parent organisation. As a result, a branch secretary is not the 'secretary' for the purposes of the AIR Act. Only the secretary of the parent organisation performs this statutory role.



If an organisation chooses to establish branches, it's good practice for the association's rule to include a description of the governance arrangements for the branches. An organisation with branches should draft their own rules rather than adopt the model rules, as the model rules do not cover branches.



Part 2

Appointing and removing a secretary

Appointing and removing a secretary

This part of the guide covers the legal requirements for appointing and removing a secretary of an incorporated association in Victoria.

Summary of key points in this part of the guide

Who can be the secretary?	The AIR Act regulates who can be the official 'secretary' of an incorporated association. In addition, an organisation's own rules and policies may have particular requirements.
How is the secretary appointed?	<p>The first secretary of an incorporated association is the person nominated to be the secretary of the association in the application for its incorporation under the AIR Act.</p> <p>Thereafter, the secretary is usually elected at the organisation's AGM. However, if a vacancy arises in the position of secretary, the association must appoint a new secretary, in accordance with the procedures in its rules, within 14 days after the vacancy arises.</p>
What happens after the secretary is appointed?	<p>Every new secretary must notify CAV of particular matters after they have been appointed, or if their details change. The newly appointed secretary will also have to create a myCAV account for themselves (or their delegate).</p> <p>Associations incorporated under the AIR Act need to notify the Australian Taxation Office (ATO) of a change of secretary.</p> <p>Registered charities with the Australian Charities and Not-for-profit Commission (ACNC) have to notify the ACNC of changes to their 'responsible persons' which may include the secretary if the secretary is part of the committee. The secretary is not always part of the committee but they will be if the association is using the model rules.</p>
When will the secretary's position become vacant?	<p>The AIR Act and an association's rules set out the circumstances in which the position of secretary will become vacant.</p> <p>A secretary's position also becomes vacant if they resign or if the organisation otherwise removes the existing secretary from their position.</p>

Who can be the secretary?

The secretary is the principal contact point between CAV and your organisation. The secretary is legally responsible for a number of specific tasks required by the AIR Act — see [part 8 of this guide: Reporting to Consumer Affairs Victoria](#), and [CAV's website](#).

The role of secretary is very important for your organisation.



Your organisation should appoint a person who has the experience, skills or qualifications to carry out the role of secretary.

Effective secretaries need to have a range of skills, including:

- enthusiasm for, and knowledge of, the organisation and its mission
- adequate time for the task
- interest in committee work
- good working relationships with other people involved in managing the organisation, and
- reliability and good organisational skills

In choosing your secretary, you should also take into account:

- any restrictions or qualifications required by law, particularly the AIR Act (see below)
- your organisation's rules, and
- any relevant policies your organisation has

More details about these requirements are outlined below.

AIR Act requirements

The AIR Act provides that a secretary of an association incorporated in Victoria must:

- consent to being appointed to the position (section 73(3)(a) of the AIR Act)
- be at least 18 years old (section 73(3)(b) of the AIR Act)
- be resident in Australia (section 73(3)(c) of the AIR Act and see further below)
- not be 'insolvent under administration' (section 78(2)(c)(ii) of the AIR Act and see further below), and
- not be a 'represented person' under the *Guardianship and Administration Act 2019* (Vic) (**Guardianship and Administration Act**) (section 78(2)(c)(iii) of the AIR Act and see further below)

Unless the rules of your organisation say otherwise:

- the secretary may also hold another position in your organisation (section 76 of the AIR Act), and
- there is no upper limit to the secretary's age

The AIR Act requirements for being a secretary are explained in more detail below.



Tip

Some organisations accidentally appoint a secretary who by law is not allowed to hold the position (for example, they may be under 18 years of age). To help avoid this, before someone is appointed as secretary, the association should ask them to sign a letter of consent in which they:

- agree to act as the organisation's secretary
- confirm that they satisfy the AIR Act requirements for being a secretary, and
- agree to notify the organisation if any of these matters, or their contact details, change

Who is a 'resident' of Australia?

The AIR Act does not define who is a resident of Australia. However, as a general rule, the secretary's primary place of residence (that is, the place where they usually live) must be located in Australia.

Even if the secretary is not an Australian citizen or if they frequently travel outside Australia, they can usually still be the secretary if they are primarily based in Australia. But check the rules of your organisation for any special additional requirements.



What is ‘insolvent under administration’?

‘Insolvent under administration’, as defined in the *Interpretation of Legislation Act 1984 (Vic)*, is a general term used for when a person or an organisation is (or is on the verge of being) bankrupt.

Bankruptcy is a legal status that offers a person protection from further action against them by creditors (a creditor is someone a bankrupt person owes money to). A person is a ‘declared bankrupt’ when an actual declaration of bankruptcy has officially been made about them (either by a voluntary declaration of bankruptcy or a declaration by the courts). Bankruptcy usually lasts for three years and one day.



For more information about bankruptcy visit the [Australian Financial Security Authority website](#).

Bankruptcy records are publicly accessible on the National Personal Insolvency Index (NPII), so it is possible to check if a person has been declared bankrupt. See the [Bankruptcy Register Search on the AFSA website](#). (Fees apply when searching the NPII).

A person is also considered insolvent under administration if they have entered a ‘personal insolvency agreement’, which is an agreement to repay creditors. A person who is in debt can sometimes enter into a personal insolvency agreement to avoid being declared bankrupt.

It’s not possible to check if someone has entered a personal insolvency agreement, so it is a good idea to require your secretary to sign a declaration that they are not ‘insolvent under administration’.

Who is a ‘represented person’?

The term ‘represented person’ is defined in the Guardianship and Administration Act as a person who currently has either a guardian or administration order (or both) in effect.

A ‘guardian’ or ‘administrator’ is appointed by the Victorian Civil and Administrative Tribunal under an order which determines the scope of the guardian or administrator’s decision-making for the represented person.



Caution

A secretary who goes to live outside Australia, or who becomes insolvent under administration or who becomes a represented person, is no longer eligible to be the secretary.

Under the AIR Act, the position of secretary becomes automatically vacant when any of these things occur. In this situation your organisation will need to appoint a new secretary and will need to do so within 14 days of the vacancy arising.

Your association’s rules and policies

Your organisation’s rules must provide for the appointment and removal of your organisation’s secretary – this is a requirement under the AIR Act.

Check the rules and any relevant policies of your organisation for additional requirements about who can be appointed as the secretary and the term (length) of their appointment. For example, your rules may require certain qualifications or experience for the role. However, the rules and any policies of your organisation cannot override the AIR Act requirements – for example, your rules can’t permit your secretary to reside outside of Australia or to be under the age of 18.

If your organisation is large, your rules may state that the secretary can be a paid position. In some large organisations the rules may allow for certain work of the secretary to be carried out by a specialist firm for a fee. However, even if the secretary delegates their functions to another person or firm, the secretary remains legally responsible for those duties being properly carried out.



For more information on the secretary's duties, see [part 8 of this guide: Reporting to Consumer Affairs Victoria](#) and [part 3 of this guide: Secretary's Legal Role, Powers and Duties](#)

Does the secretary have to be on the committee?

There is no requirement in the AIR Act or the Regulations for the secretary to be on the committee. However, the model rules and the rules of many organisations state that the secretary is a member of the committee.

If your association's rules do not require the secretary to be a member of the committee, the secretary cannot vote at committee meetings unless the rules expressly state otherwise.

Relationship between the secretary and public officer

If your organisation's rules were drafted to meet the requirements of the Old Act, they may provide for the appointment of a 'public officer' as well as a 'secretary'. Under the AIR Act, anyone who is a 'public officer' will now be taken to be the 'secretary' for the purposes of the AIR Act. This means that your association's rules may now be confusing, as your organisation will effectively have two 'secretaries' – a 'statutory secretary' under the AIR Act (formerly the public officer), and a secretary as provided for in your association's rules.



Tip

If your association's rules provide for the appointment of a public officer, we recommend that your association amend these rules sooner rather than later to avoid confusion. For information on changing your rules, go to [our webpage on rules and constitutions](#).

Where to find a new secretary

In many cases, a new secretary is found from within the organisation – for example, there may be an existing member of the committee or member of the association who has suitable skills and interests.

If your organisation needs someone with particular expertise to fulfil the position (for example, because of the size and complexity of your association), ask around to find someone suitable for the role. New secretaries are often found by the existing committee members (or others within the organisation) who can use their networks to find people who may be suitable for the role.

It may also be helpful for your organisation to look for someone by contacting the various volunteer brokers and support organisations. You can also advertise online or in your local paper.



Organisations who can help include:

- [Volunteering Australia](#) and [GoVolunteer](#)
- State-based volunteering peak bodies, such as [Volunteering Victoria](#)
- [Leadership Victoria](#) which now includes the Greatconnections program and regional groups, such as [Leadership Ballarat](#) and [Western Region](#)
- [goodcompany](#)
- [Creative Partnerships Australia](#)
- [OurCommunity](#), and
- [Pro Bono Australia](#)

For further ideas, speak to any peak body to which your organisation may belong — they may be able to put a note in their next newsletter or e-bulletin. For example, the Victorian Council of Social Service (**VCOSS**) can point groups working in social services in the right direction for assistance in finding a secretary.

How is the secretary appointed?

The way in which your organisation appoints the secretary must be set out in your organisation's rules (this is a requirement under the AIR Act).

For example, your organisation's rules may require that your secretary be elected by members (normally at the AGM – see below), or they may allow the committee to appoint a secretary.

The first secretary

The first secretary of your association is generally the person who applied for incorporation (unless the application specified another person). The person must have consented in writing to being the first secretary (section 72 of the AIR Act).

The first secretary will need to set up a [myCAV account](#) (linked to their own email address, not the association's email address) and then link the account to the incorporated association. The myCAV account is the portal through which the secretary can lodge documents with CAV and notify of other changes. The application for incorporation. The application for incorporation must be completed through this myCAV account. Further details on how to create a myCAV account can be found on the CAV's website.

Electing a secretary at the annual general meeting

Many organisations' rules say that the secretary must be elected by members of the association at the AGM. The model rules follow this procedure. Check your own organisation's rules, as well as your organisation's policies and procedures, for:

- how and when candidates for secretary are nominated
- how and when information about the candidates is distributed to all members before the AGM, and
- what happens if only one candidate is nominated or if no one is nominated.

What if no one is elected secretary at the annual general meeting?

If a secretary is not elected at the AGM for some reason (for example, no one was nominated or eligible), the rules will generally provide that the committee can appoint a secretary.

In large organisations, where the secretary may be a paid manager of the organisation, it is often the case that rules provide that the committee can appoint a secretary, however, you need to check your own organisation's rules carefully.

Filling vacancies

If the position of secretary becomes vacant between AGMs (for example, because the existing secretary resigns or must be removed due to non-compliance with a requirement of the AIR Act), the association must fill the vacancy within 14 days of the vacancy arising. This must be done in accordance with the procedures set out in the organisation's rules.

The association must notify CAV of that appointment within 14 days (section 74(1) of the AIR Act). Once appointed or elected, the new secretary must set up their own individual myCAV account.

Most associations have a rule that allows the committee to quickly appoint someone to the role of secretary if there is a short term or 'casual' vacancy. For example, if your association uses model rule 57 (or a similar rule) the committee must appoint another member of the committee to be the secretary within 14 days of the position becoming vacant, and that person will remain appointed until the next AGM.

If your association's rules have a different procedure for the appointment or election of a new secretary and 14 days is not long enough to carry out the procedure, then the committee must appoint a temporary secretary within 14 days. This temporary secretary only holds the position until a permanent secretary is appointed or elected under the association's rules (section 73(2) of the AIR Act). If your association's rules do not provide for filling vacancies of the secretary position, model rule 57 will be automatically included in your association's rules.

The circumstances in which the position may become vacant are discussed below.



Note

The secretary is often a member of the committee – but doesn't have to be.



Tip

The minutes of a decision of a committee to appoint a new secretary may say something like this:

The committee appointed Ms Katherine Smith to be the secretary of XYZ Inc, effective from 1 January 2022 until the end of the next annual general meeting of XYZ Inc (or earlier resignation or termination in accordance with the rules).

To help make sure the secretary is eligible to hold the position, the committee may also wish to state in the minutes something like this:

The committee has received (and will keep for its records) a written statement by Ms Katherine Smith providing her contact details and confirming that she:

- *consents to act as the secretary of XYZ Inc*
- *satisfies the AIR Act requirements of the Associations Incorporation Reform Act 2012 (Vic) and the rules of XYZ Inc for being a secretary, and*
- *agrees to notify the committee of XYZ Inc if any of these above statements or her contact details change.*



Note

Under the AIR Act, a new secretary must be appointed within 14 days of a vacancy in the position of secretary arising. CAV must be notified of the change within 14 days of the new appointment.

What happens after the secretary is appointed?

Report to CAV

Within 14 days after a new secretary is appointed, the new secretary must notify CAV of certain details (section 74 of the AIR Act and regulation 11 of the Regulations). To do this, the new secretary must set up a myCAV account and then link it to the incorporated association. As noted above, the myCAV account is the portal through which the secretary can lodge documents with CAV and notify of other changes.



Caution

Your association may be fined if CAV is not notified of the appointment of a new secretary within 14 days of the appointment.

If the existing secretary's details change (for example, their address) this information should also be provided to CAV by way of the myCAV account.

The secretary can advise CAV of these changes through the myCAV account.



Note

If you have just been appointed as the secretary (or you are the existing secretary and your details change), you need to notify CAV by way of your myCAV account – even if your organisation or the previous people in this role have not done this in the past.



Tip

Secretaries must create their own individual myCAV account and link it to the incorporated association. The myCAV account is how the secretary can lodge documents with CAV and notify of other changes. Further details on how to create a myCAV account can be found at [CAV's website](#).

If your incorporated association is fundraising, you will need to create a separate licensing and registration myCAV account. You will need to use this to record any fundraising activity, as these are currently registered in different systems.



See [part 8 of this guide: Reporting to Consumer Affairs Victoria](#) for more information about the reporting responsibilities of the secretary of an incorporated association.



Note

If you are the secretary, make sure you have the most up-to-date version of your rules, including any changes that the organisation's members and CAV have approved.

If you are confused about which rules apply to your organisation and whether the copy you have is up-to-date, access a copy of your organisation's latest rules through your myCAV account.

Who else should be notified of the appointment of a new secretary?

You may need to notify the ATO of a change in secretary as an ATO tax officer will only discuss your organisation's account with your authorised contact person (who may be your secretary).

Charities registered with the ACNC have to notify the ACNC of changes to 'responsible persons', which refers to the committee or board members on a charity. This may include the secretary (if the secretary is part of the committee, which does not have to be the case but it will be if the organisation is using the model rules). You can update these details through the [ACNC Charity Portal](#).

You may need to consider whether there are other people, organisations or agencies that should be notified of a change of secretary. Check your organisation's policies and important documents such as funding agreements and leases.



When will the position of secretary become vacant?

Under the AIR Act (sections 78(2) and (3)), the position of secretary becomes vacant if the secretary:

- dies
- resigns in writing
- is removed from office by special resolution (see below)
- is disqualified from managing corporations, Aboriginal and Torres Strait Island corporations or cooperatives under the relevant legislation, or
- becomes insolvent under administration, a represented person, or no longer lives in Australia (see the discussion of these criteria above)

If any of these circumstances apply, the organisation does not have to pass a resolution removing the person as secretary - their position is automatically terminated (vacated) under the AIR Act. When an automatic vacancy occurs, an association must appoint a new secretary within 14 days. This appointment process is discussed above under [How is the secretary appointed?](#)

The position of secretary also becomes vacant if a statutory manager is appointed to run the association (section 78(2)(e) of the AIR Act).

Secretaries can also retire or be removed from office. Members of an association can remove a secretary by special resolution (section 78(2)(b) of the AIR Act). The rules of an association can provide other ways to remove a secretary (for example by resolution of the committee). The processes for retirement and removal of a secretary must be contained in an association's rules (section 78(1) of the AIR Act).

What does it mean when the secretary reaches the end of their 'term'?

If the secretary is a member of the committee, they must be appointed for a set length of time (see item 9(b) of Schedule 1 of the AIR Act). This length of time is called their 'term' of office.

In many organisations, including those using the model rules, a secretary's term of office is one year, and the position of secretary becomes vacant (and up for election) at the organisation's next annual general meeting. In some organisations, the rules allow the person who was secretary in the previous year to be re-elected for the next year.

You need to check your organisation's rules carefully to find out how your organisation nominates and elects a new secretary when the current secretary's term of office ends.

Return of documents of the organisation

The secretary will have access to documents and information about the organisation because of nature of their role. After they have left their position, these documents must be returned to the committee within 28 days (section 88 of the AIR Act). If the documents are not returned after further request, the organisation can apply to the Magistrates' Court for an order directing the person to return them.

It's good practice for the outgoing secretary to sign a statement confirming that they have returned all relevant documents after they have finished in the position.



Tip

To assist the transfer of information from one secretary to the next, it's a good practice to:

- arrange a handover from the outgoing to the incoming secretary
- arrange for the outgoing secretary to provide all relevant information to the incoming secretary (for example, logins or passwords, financial records, minutes, copies of documents lodged with CAV) as soon as the new secretary is appointed or elected – it may be useful to have a checklist setting out what information needs to be provided
- ensure that secretaries store all information securely in a central place (such as the organisation's office or computer), including back-ups of electronic data, and
- provide a copy (and if required, explain) the organisation's policies and procedures to the new secretary

Removing a secretary

Sometimes an organisation may have to remove a secretary from office (for example, because the person is not carrying out their duties properly).

Under the AIR Act, an incorporated association must have procedures for the removal of a secretary in its rules (item 10 of Schedule 1 of the AIR Act).

In all associations, the secretary may be removed by special resolution at a general meeting of members (section 78(2)(b) of the AIR Act).

For more information about passing resolutions at general meetings, see [part 6 of this guide: Special General Meetings](#). Often an association's rules will also allow the committee to remove the secretary.

An association's rules may permit a secretary who is proposed to be removed to write a letter to the president and request their letter to be sent to members, or to ask that the letter be read aloud at the general meeting. This is the position under the model rules.

What if the secretary is a member of the committee?

If the secretary is removed by special resolution and that secretary was also a member of the committee, the person will be automatically removed as a committee member.

What if the secretary is an employee of your organisation?

If the secretary is also an employee of your organisation, their employment arrangements should be carefully considered. If the person's main role is as the secretary, the organisation may no longer want to employ them.

If your organisation wants to remove a secretary who is also an employee, and this would mean that the person no longer has a paid position in the organisation, you should seek legal advice before taking any action to remove the secretary. The organisation must ensure that it complies with relevant contractual and statutory requirements about terminating (ending) a person's employment. The national *Fair Work Act 2009* (Cth) makes it illegal to dismiss an employee for certain reasons.



Find more information on fair and lawful termination on [the Fair Work Ombudsman's website](#).



Part 3

Secretary's legal role, powers and duties

Secretary's legal role, powers and duties

This part of the guide covers the legal role, powers, duties and liabilities of a secretary of an incorporated association in Victoria.

Summary of key points in this part of the guide

What are the main legal tasks of a secretary?

In Victoria, laws regulating incorporated associations shape the secretary's tasks and responsibilities.

There are specific tasks required of the secretary in the AIR Act. These include reporting to CAV on the organisation's financial affairs in the 'annual statement' and notifying CAV of changes to key information about the organisation through myCAV.

An organisation's rules will set out additional requirements.

Typically the secretary will have responsibility for organising meetings, taking minutes, dealing with memberships and keeping records of the organisation. There are tools at the end of this guide to help you understand these tasks.

What are the legal duties of a secretary and committee members?

As an 'office holder' of the association, the secretary and committee members have specific duties set out in the AIR Act when they are performing their role and carrying out their tasks.

What happens if a secretary or committee member breaches any of their legal duties?

There are consequences of breaching a duty under the AIR Act, including monetary penalties (discussed in this part of the guide).

These statutory duties are very similar to general duties that apply through the common law.

Does a secretary have power to act on behalf of the organisation?

The law gives a secretary power to act on behalf of the incorporated association in certain situations. The committee may authorise the secretary to act on behalf of the organisation more broadly (this is called 'delegating' to the secretary).

When is a secretary or committee member personally liable for the debts and liabilities of the organisation?

A secretary or committee member is generally not personally liable (legally responsible) for the debts and liabilities of an organisation unless they provide a personal guarantee (for example, if they act as guarantor for a loan of the association).



Note

This part of the guide only deals with the internal administration tasks of the secretary.

The secretary also has external reporting functions under the AIR Act. See [part 8 of this guide: Reporting to Consumer Affairs Victoria](#) for information about these external reporting functions.

What are the main legal tasks of a secretary?

The main tasks and legal obligations of the secretary of an incorporated association are contained in:

- the AIR Act and the Regulations
- the organisation's rules
- the organisation's policies and procedures (if any), and
- other legislation (for example, to do with occupational health and safety)

The law in Australia varies between each state and territory. If your organisation is incorporated outside of Victoria, you will need to check the legislation that is relevant to you.



Note

Make sure you have the most up-to-date version of your rules, including any changes that the organisation's members and CAV have approved.

If you are confused about which rules apply to you, access a copy of your organisation's rules through your myCAV account.

The legal tasks of a secretary essentially fall into two categories, external and internal responsibilities.

External responsibilities

External reporting tasks are covered in [part 8 of this guide: Reporting to Consumer Affairs Victoria](#). These tasks include reporting to CAV on the organisation's financial affairs in the 'annual statement' and notifying CAV of changes to key information about the organisation.



For information about the external reporting tasks of the secretary, see [part 8 of this guide: Reporting to Consumer Affairs Victoria](#).

Internal responsibilities

This part of the guide deals with the secretary's internal tasks related to the administration of the organisation.

While the specific internal administration tasks vary from organisation to organisation, in general the secretary is responsible for:

- organising meetings (for example, sending notices of meetings, drafting the agenda, writing and distributing minutes of meetings)
- take minutes of meetings



- dealing with applications to join the association and membership records (for example, keeping the organisation's register of members up-to-date)
- receiving, assessing and deciding on members' requests to have access to their personal information on the members' register restricted (this is discussed in detail in [part 4 of this guide: Registers, Records and Official Documents](#))
- dealing with requests for access to information of the association by members (discussed in detail in [part 4 of this guide: Registers, Records and Official Documents](#)) and
- maintaining particular documents and records of the association (for example, keeping copies of funding agreements or leases)



Tip

Print the tables at the end of this guide and keep them as an ongoing checklist or reminder:

- [Tool 2: Main tasks of a secretary – meetings](#)
- [Tool 3: Main tasks of a secretary – membership](#), and
- [Tool 4: Main tasks of a secretary – record keeping](#)

If the table refers to a clause in the model rules, and your organisation does not use the model rules, check your organisation's rules - as they may be different.

The secretary may authorise someone else (for example, volunteers or paid staff) to do some or all the particular tasks that they are responsible for (this is called 'delegating').

However, the secretary is still responsible for the tasks carried out by others. This means that secretaries should be careful to supervise those carrying out their tasks, and to put in place policies and procedures to ensure the tasks are carried out properly.

Duties and obligations under other legislation

Other laws may also apply to the secretary as an office holder of the organisation. For discussion of the concept of an 'office holder' under the AIR Act go to [part 1 of this guide: Overview of an association](#).

Some other laws that secretaries may need to be familiar with are laws relating to occupational health and safety (**OHS**), fundraising, liquor licensing, gaming, industrial relations, copyright, defamation, crime, privacy, and environmental laws as well as local council by-laws. These laws can apply to the secretary, the committee, or to other members of the incorporated association.

Where such laws apply, the secretary – and the organisation generally – must comply with them. For example, criminal laws relating to theft and obtaining property by deception would apply to a secretary (or any other person) who was stealing from an organisation.



For further information about Victorian OHS laws, see [our Victorian guide to Occupational health and safety](#).

Branch secretaries

If an organisation is large, it may have branches. See [part 1 of this guide: Overview of an association](#) for more information about branches and branch secretaries.

It's important for branch secretaries to communicate well with the secretary of the parent organisation and to maintain accurate records and registers. It's also important for the parent organisation to have written policies and procedures to help the branch secretaries in their role.

In many cases, a branch secretary is not a member of the parent organisation's committee and they may not be the 'secretary' of the association for the purposes of the AIR Act. However, the branch secretary may still be regarded as an 'office holder' with legal duties under the AIR Act. See [part 1 of this guide: Overview of an incorporated association](#) for more information on 'office holders'.

For this reason, it's good practice for branch secretaries (and any other similar officers, where relevant) to assume that they have the same legal duties as the secretary of the parent organisation.

What are the legal duties of the secretary and committee members?

The AIR Act sets out a number of legal (statutory) duties that apply to office holders (and in some cases former office holders) of incorporated associations.

As an office holder, the duties apply to secretaries in the performance of their role. The legal duties are:

- duty to act in good faith and for a proper purpose (section 85 of the AIR Act)
- duty to not misuse information or office (section 83 of the AIR Act)
- duty to disclose material interest (section 80 of the AIR Act) (applies only to members of the committee), and
- duty of care and diligence (section 84 of the AIR Act)

There are similar legal duties that can come from the law developed by the courts ('common law').



For more information on the legal duties of the secretary and committee members, see [our duties guide](#).

Duty to act in good faith and for a proper purpose

Office holders must exercise their powers and discharge their duties with the degree of care and diligence that a reasonable person would exercise, if that person were an office holder in the same circumstances and held the same office as the office holder (section 85(1) of the AIR Act).

This means that the secretary must:

- act in good faith (in other words, with integrity) and in the best interests of the organisation, assisting the organisation to achieve its purpose (as contained in the organisation's purposes in its rules, and other documents such as a mission and values statements (see section 85(1)(a) of the AIR Act)
- not act for their own benefit or the benefit of a particular group of members. For example, a secretary should not receive bribes or 'kickbacks' from suppliers to the organisation and should not act in a way which treats a particular member of the association unfairly, or is not in the interests of members of the organisation as a whole (see sections 61 and 68 of the AIR Act). For example, a secretary should not use their powers to discriminate against members of the organisation they do not like or to prevent them from attending or voting at a general meeting, and
- make sure the organisation is only doing things that are permitted by the organisation's rules and purposes (see sections 34 and 35 of the AIR Act)

Duty to not misuse position or information

Office holders must not:

- misuse information acquired by virtue of holding office to gain an advantage for themselves or another person or to cause detriment to the organisation (this duty also applies to former office holders), and
- make improper use of their office to gain an advantage for themselves or another person or to cause detriment to the organisation



This means that office holders can't use their position, or the information they acquire or have access to through their position, to get an 'advantage' (financial or otherwise) for themselves or any other person (such as a relative) or to damage the association. Some examples of misuse of information or position could be:

- using details from the register of members to conduct a mail-out about a friend's business
- authorising their own petty cash reimbursements
- executing contracts for the organisation when they have a personal interest in the contract (for example a contract to purchase stationery from their own stationery business), or
- providing confidential information about a position available in the association to a friend who is applying for the position, such as information about other applicants for the position

Duty to disclose material personal interest (only applies when the secretary is a member of the committee)

A member of the committee who has a 'material (meaning 'significant' or 'major) personal interest' in a matter being considered at a committee meeting must, as soon as the member becomes aware of their interest in the matter, disclose to the committee:

- the nature and extent of that interest, and
- how the interest relates to the activities of the organisation

The above details must be recorded in the minutes of the meeting at which the matter is being considered. The committee member must also disclose the nature and extent of their personal interest in the matter at the next AGM.

This three step approach is illustrated below.

Office holders must disclose, manage and record:

- 1. Disclose**

As soon as they become aware of the material personal interest, office holders must disclose the nature and extent of the interest to the committee as well as how that interest relates to the activities of the organisation.

The interest must also be disclosed at the next AGM.
- 2. Manage**

Office holders must not:

 - be present at the meeting while the matter in which they have a material personal interest is being considered, or
 - vote on the matter
- 3. Record**

Officer holders must ensure that meeting minutes record:

 - that they disclosed a material personal interest
 - the nature and extent of that interest and how it relates to the activities of the organisation, and
 - that they left the meeting for the relevant discussion and vote and returned afterwards

This duty helps committee members to avoid conflicts of interest – that is, where the interest of the committee member (or interests of a friend, family, or another organisation in which they are involved) are at odds (in 'conflict') with the interests of the organisation.

For example, a secretary may have a 'conflict of interest' if an opportunity is available to the organisation that the secretary could profit from personally such as, if the organisation was looking for an electrician, and the secretary owns an electrician business.



Example

The committee of XYZ Inc is deciding on pay rates for staff. The secretary of XYZ Inc is on the committee, and her partner is a paid staff member of the organisation.

The secretary must:

- tell the committee that her partner is a member of staff (as she may have a conflict of interest)
- not be present at the meeting while her partner's pay rate is being considered
- not vote on motions about her partner's pay rate
- make sure that the meeting minutes record what she told the committee, and how the meeting dealt with the matter (for example, she left the room while her partner's pay rate was discussed and voted on), and
- disclose the nature and extent of the personal interest to members at the annual general meeting

In certain situations, the statutory duties about conflicts of interest in sections 80 and 81 of the AIR Act do not apply.

An office holder **does not** need to disclose a conflict of interest if:

- the material personal interest exists only because:
 - the office holder is an employee of the association, or
 - the office holder belongs to a class of people for whose benefit the organisation is established, or
- the material personal interest is one that the office holder has in common with all, or a substantial proportion, of the members of the organisation

Even if the secretary is not a member of the committee they should be aware of the above obligations with respect to material personal interests. This is because the secretary will need to be able to accurately record any disclosures by committee members of such conflicts of interests in the minutes.



Tip

People's perceptions about whether there is a conflict of interest are important. This means that even if you are legally allowed to participate in discussions or vote on matters in which you have a personal interest because one of the exceptions applies, it is usually good practice not to do so.

Avoiding conflicts of interest and any perception of conflicts of interests gives members and other people dealing with the organisation confidence that the organisation is well managed, and that decisions are being made fairly and for the benefit of the organisation.

Duty to act with care and diligence

An office holder must exercise their powers and discharge their duties with the degree of care and diligence that a reasonable person would exercise if that person:

- were an office holder of the organisation in the same circumstances applying at the time of the exercise of the power or the discharge of the duty (section 84(1)(a) of the AIR Act), and
- occupied the same office, and had the same responsibilities, as the office holder (section 84(1)(b) of the AIR Act)

Unless your organisation's rules say otherwise, you do not have to have any particular qualifications to be an office holder. However, you should use whatever skills and experience you have for the benefit of the organisation (subject to any professional obligations you may have).

To discharge your duty to act with care and diligence you should:

- know the organisation's financial position and make sure the committee takes action if there is a concern about whether debts can be paid on time. Every member of the committee must do this, rather than leaving it entirely to the treasurer
- be familiar with your organisation's activities, policies and affairs
- attend and actively participate in committee meetings
- follow up action items between committee meetings
- keep your organisation's records up-to-date, and
- report to CAV accurately and on time



Note – duty to prevent event insolvent trading

The committee is responsible for overseeing the financial affairs and financial health of the organisation. If an organisation is trading while insolvent, it means it is continuing to operate and enter into contracts or otherwise incur debts while it cannot repay its existing debts.

A key part of the duty to exercise care and diligence is a duty to prevent the organisation from trading while 'insolvent'. This 'sub-duty' arises as a result of the application of the Corporations Act in the AIR Act (refer to section 152 of the AIR Act).

An incorporated association that trades while insolvent may be liable to pay a financial penalty to CAV of up to \$20,000. For more information, see [our fact sheet on 'Insolvency and your organisation'](#).

If an office holder doesn't have the required skill or knowledge on a particular matter, the duty of care means that they need to seek help from someone who does. For example, a secretary may need to ask the organisation's treasurer or auditor for help in understanding the organisation's financial position.

Business judgements

The law recognises that running an organisation involves making informed decisions on behalf of the organisation. With the benefit of hindsight there will be occasions where it's clear that some decisions did not benefit the organisation. However, this does not automatically mean the person making the decision has breached a duty owed to the organisation.

This is because the decision maker may be able to justify their actions using the AIR Act's 'business judgment' defence. This is a statutory defence to claims that an office holder has failed to meet the standard of care and diligence required under section 84(1) of the AIR Act (see section 84(2) and (3)).

This defence can be relied on where the office holder:

- makes a decision or undertakes a course of action honestly, in good faith and for a proper purpose
- does not have a material interest in the subject matter of the decision
- informs themselves about the subject matter of the decision to the extent that they reasonably believe to be appropriate, and
- rationally believes the decision or course of action is in the best interests of the association (even if in hindsight the decision was not the best choice for the organisation)



Note

The 'business judgement' rule only applies as a defence to the duty of care and diligence in the AIR Act. It cannot be relied on as a defence for any of the other statutory duties in the AIR Act.

Defence of relying on information and advice

The AIR Act contains a defence to claims that an office holder has breached any of the statutory duties if the office holder has reasonably relied on information or advice.

When determining what will be reasonable, the AIR Act lists a number of sources of information or advice can be reasonably relied upon provided that the office holder relies on them in good faith and independently assesses their merit.

This list covers information or advice received from:

- employees of the association who the office holder reasonably believes are reliable and competent
- professional advisors or experts where the subject matter of the information or advice falls within their expertise
- another office holder acting within their authority, or
- a sub-committee of the association, provided that the office holder is not a member of the sub-committee

What happens if a secretary doesn't comply with their legal duties?

CAV's powers to investigate and intervene

If there are allegations that the secretary (or others involved in running the organisation) are not complying with their legal duties, or that the organisation is in breach of its legal obligations, CAV may decide to investigate the organisation or send a letter requesting compliance.

Before taking this step, CAV would usually need to be informed of the problem by a committee member or another member of the organisation.

CAV may then:

- appoint an inspector to investigate the organisation's activities (sections 162-167 of the AIR Act), or
- in serious cases (for example, gross mismanagement by the committee), apply to the Magistrates' Court for a statutory manager to be appointed to take over the running of the organisation (section 116 of the AIR Act)

In some circumstances, CAV can wind up an organisation (or apply to have it wound up) by either:

- certifying that particular matters have occurred (set out in section 127 of the AIR Act), or
- applying to the Supreme Court to wind up the organisation (see section 126 of the AIR Act)

In either case there is a procedure that must be followed, including giving notice to the organisation. If your organisation receives such notice (or correspondence indicating that CAV, a member of your association, a creditor or statutory manager intends to take action to wind up your organisation), your association should seek legal advice urgently, and may be able to oppose this action.



Consequences of a breach of duty under the AIR Act

It's an offence under the AIR Act for an office holder (including a secretary) to fail to comply with any of their statutory duties, and a court may order them to pay a penalty. The penalties vary, but they are significant – up to approximately \$20,000.

In addition, if the secretary breaches their duties under the AIR Act in a way that is 'knowing' or 'reckless' (see above – [What are the legal duties of a secretary and committee members?](#)) a court may also order them to pay compensation to the organisation (section 83(5) of the AIR Act). This could result in very serious financial outcomes for a secretary.

Do penalties apply if the secretary is not a member of the committee?

As mentioned in [part 1 of this guide: 'Overview of an association'](#), a secretary is defined as an 'office holder' under the AIR Act and therefore, even if they are not on the committee, the statutory duties and penalties under the AIR Act apply to them. The exception is the conflict of interest provisions, which don't apply if a secretary is not on the committee.

Does a secretary have power to act on behalf of the organisation?

The AIR Act gives the secretary certain express powers to act on behalf of the organisation.

Specifically, the secretary can:

- execute any contract or other document to bind the organisation along with the signature of a committee member (section 38 of the AIR Act), and
- authenticate any document (in other words, confirm that a document is authentic) or proceeding on behalf of the organisation (see section 37 of the AIR Act)

The secretary is acting on behalf of the organisation when they sign statements and forms and submit them to CAV as part of their external reporting tasks. For more information on external tasks, see [part 8 of this guide: Reporting to Consumer Affairs Victoria](#).

Additionally, the AIR Act allows an incorporated association to appoint a person to execute a deed on its behalf either generally or in specific circumstances (section 39 of the AIR Act). A deed is a particular type of legally binding document similar to a contract and is required in some situations, such as for a transfer of land.

Associations can also give 'express' authority to a person to make, vary or discharge (in other words, perform) a contract in the name of (or on behalf of) the organisation (section 41 of the AIR Act). A person may also have the implied authority of the association to do those things (section 41 of the AIR Act). The committee may decide to authorise the secretary to do these things.

'Express' and 'implied' authority are described in the table below, with examples..

Express and implied authority

Authority	Example
<p>Express authority</p> <p>Express authority is when the committee has given the secretary direct verbal or written instructions. In substantial or important matters, the secretary should only enter into a contract (or legally bind the organisation) on express written authority of the committee.</p>	<ul style="list-style-type: none"> • An example of express authority would be where the committee passes a resolution authorising the secretary to sign a building contract for a new kitchen area in the organisation's club house.

Implied authority

Implied authority to act on behalf of the organisation is a less precise source of authority. However under judge-made law, a secretary has implied authority to do all the things a secretary in such a position would customarily (ordinarily) do.

A secretary generally has implied authority to legally bind the organisation in:

- matters incidental to their duties, and
 - matters incidental to their express authority
- A secretary of a multi-million dollar sporting club with poker machines will have greater implied authority (customary power) than the secretary of a newly incorporated tiddly-winks club with seven members and a \$10 bank balance.
 - Matters incidental to a secretary's duties might include:
 - buying minute books
 - printing the organisation's rules, and
 - buying paper for notices of meetings
 - Matters incidental to express authority might include:
 - organising to pay GST and insurance after having been expressly authorised by the committee to buy an expensive piece of equipment for the organisation

When is a secretary personally liable for the debts and liabilities of the organisation?

As a general rule, the secretary will not be personally liable for the debts and liabilities of the organisation, including any costs incurred in winding up the organisation, unless the AIR Act or the association's rules expressly provide for such. The same applies to members of the committee and members of the incorporated association (section 52(1) of the AIR Act).

However, if a secretary has specifically accepted personal liability (for example, if they have given a personal guarantee for a loan by the organisation), then the secretary will be liable for those particular debts.

Remember: a secretary can be personally liable for a breach of duty (see above – [What are the legal duties of a secretary and committee members?](#)), and in some circumstances can be ordered to pay compensation.



Part 4

Registers, records and official documents

Registers, records and official documents

This part of the guide covers the legal requirements for various registers, records and documents (including official and business documents) prepared and kept by incorporated associations in Victoria. The secretary is usually responsible for maintaining these registers, records and documents.

Summary of key points in this part of the guide

What are the main legal requirements for registers, records and official documents?

The legal requirements for incorporated associations to prepare and keep documents, registers and records are outlined in this part of the guide.

Types of registers

Every incorporated association must have a register of members (see section 56 of the AIR Act). This part of the guide discusses the register of members, and other types of registers which an organisation may choose to have to assist in meeting its legal obligations in line with good governance practice. Sample registers are provided in part 9 of this guide.

Role of secretary – administering requests for restriction of access to member details on the register of members

Under the AIR Act, members can apply to the secretary of an incorporated association to restrict access to their personal details on the register of members if there are ‘special circumstances’. The secretary must assess if there are ‘special circumstances’.

Consumer Affairs Victoria’s powers of inspection, entry, search and seizure

Where there are serious concerns about an organisation’s compliance with the law, CAV may consider using its powers to (among other things) inspect and seize relevant documents, records and registers of an incorporated association.

Can CAV refuse to accept documents lodged?

In some circumstances CAV can refuse to accept documents, for example, when it considers a lodged document is not a valid document of the organisation.

What are ‘official and business documents’ and what information must be included in them?

The AIR Act sets out some specific requirements for official and business documents of incorporated associations in Victoria. In some circumstances, federal legislation (such as corporations and tax laws) may also be relevant to an incorporated association.

What are the main legal requirements for keeping registers, records and official documents?

Overview of requirements

The AIR Act requires an incorporated association to have:

- a register of members (section 56 of the AIR Act)
- rules about the organisation's custody (safe keeping) of 'relevant documents', including records and documentation of securities (item 11 of Schedule 1 of the AIR Act), and
- rules about members' right to have access to and obtain copies of the organisation's relevant documents (item 13 of Schedule 1 of the AIR Act)

Incorporated associations must also keep certain records for particular periods of time (normally seven years). If registered as a fundraiser in Victoria, an organisation must also meet the record-keeping requirements in the *Fundraising Act 1998 (Vic)* (**Fundraising Act**), and the *Fundraising Regulations 2019 (Vic)*.



Tip

To check if your organisation is registered under the Fundraising Act, contact Consumer Affairs Victoria (CAV) or search the [online register](#).

Your organisation's rules and policies may include additional record-keeping and register-keeping requirements.

Usually the secretary of an organisation is responsible for keeping documents and registers of the organisation. However, you should check your own organisation's rules, policies and procedures — sometimes the treasurer or other members of the committee also have important roles in record keeping (or at least, an obligation to provide documents to the secretary for safekeeping).

Even if the secretary delegates some or all of the tasks involved (for example, to a volunteer or staff member), they must still supervise to ensure the tasks are properly carried out. See [part 3 of this guide: Secretary's Legal Role, Powers and Duties](#).

AIR Act requirements

Specific documents to be kept for at least seven years

The AIR Act requires an organisation to keep:

- the financial statements submitted to members at the AGM (see [part 8 of this guide: Reporting to Consumer Affairs Victoria](#)) for at least seven years after it was submitted (section 105(1) of the AIR Act)
- the certificate signed by a committee member about the financial statement submitted to members at the AGM for at least seven years after the date it was signed (section 105(2) of the AIR Act), and
- the original of any document the organisation has lodged with CAV (including documents lodged electronically) for at least seven years after the date it was lodged (section 201 of the AIR Act)



Caution

If your organisation does not keep any of these documents for at least seven years, CAV can fine your organisation. [See part 8 of this guide: Reporting to Consumer Affairs Victoria](#) for more information.

Financial records

An incorporated association must maintain accurate financial records that correctly record and explain its financial transactions and position and allow for 'true and fair' financial statements to be prepared (section 89 of the AIR Act). The penalty for failing to do so is \$1,923.10 (10 penalty units) at March 2024 (this amount is indexed each year on 1 July). For more information about financial requirements, see [part 8 of this guide: Reporting to Consumer Affairs Victoria](#).



Note

Check what your organisation's rules say about these matters.

Make sure you have the most up-to-date version of your rules, including any changes that the organisation's members and CAV have approved.

If you are confused about which rules apply to you and whether the copy you have is up-to-date, the best thing to do is to contact CAV and request a copy of your organisation's rules and purposes.

Requirements to keep and store 'relevant documents'

The AIR Act includes several requirements around storing and providing access to 'relevant documents'.

The term 'relevant documents' is defined in section 3 of the AIR Act as: 'the records and other documents [...relating to] the incorporation and management of the association'.

Relevant documents include:

- the register of members and other membership records
- financial records and statements
- records and documents relating to transactions, dealings, business or property of the association, such as:
- the original application for incorporation
 - the certificate of incorporation,
 - originals of documents lodged with CAV and related correspondence (see [part 8 of this guide: Reporting to Consumer Affairs Victoria](#)), and
 - notices and minutes of meetings of members and the committee

The following are also 'relevant documents' which may be important to your organisation:

- certificates of title, documents relating to property (such as leases) and to other transactions, dealings, business activities or property of the association
- government licences and certificates
- insurance policies (including workers' compensation)
- trust deeds
- contracts and other documents relating to transactions
- mortgage and loan agreements



- investment documents (such as deposit notes, share scripts or debentures), and
- Australian Taxation Office correspondence and documents



Tip

Some documents (such as minutes of meetings) are important historical records of your organisation. It's good practice to keep them permanently – rather than throw them away after seven years. They may still be useful many years down the track.



Note

Computer or other electronic data containing any of the above 'relevant documents' (including back-ups on CDs, DVDs and external hard drive) are also 'relevant documents'.

For information about the preparation of 'official and business documents', see below.

Your organisation's rules must address how relevant documents are to be kept, and how members can inspect them.



Tip

Many organisations have a rule that is similar to model rule 47 which gives the secretary responsibility for keeping all the organisation's books, documents and securities in their custody or under their control (except where provided otherwise by the rules).

Many organisations also have a rule similar to model rule 75, which allows a member of the organisation to:

- inspect (free of charge) the organisation's register of members, minutes of general meetings, financial records, books, securities and any other relevant documents of the organisation on request, and
- take a copy of any of these records or documents (which may involve a charge)

Model rule 75 also provides some exceptions to the general right to inspect and copy documents, such as where to do so would breach a privacy law or would be prejudicial to the organisation.

The secretary is often responsible for dealing with members' requests to inspect or copy documents.

Keeping 'relevant documents' safe and organised

There is no requirement under the AIR Act to keep a register (a list) of all official and relevant documents (other than the register of members, which is required – see below, '[What registers must be kept by an incorporated association?](#)'). Check your own organisation's rules in case they set out any requirements.

Even if the rules do not require your organisation to maintain a register of important documents, it's best practice to keep such a register to ensure that documents can be located when needed and inspected and copied in accordance with the AIR Act and the association's rules.



Why keep a register of relevant documents if you don't have to?

It is good governance practice for the secretary (along with the treasurer) to maintain accurate and up-to-date registers of all the organisation's relevant documents.

Among other things, this will help everyone, especially the secretary, keep track of important documents and help to make sure they are kept as required by the AIR Act.

Fundraising Act requirements

Generally, if your organisation intends to fundraise, your organisation must register as a fundraiser with CAV under section 17A of the Fundraising Act, unless you fall within the exceptions in sections 16 and 16A of the Fundraising Act (for example, schools, hospitals and religious organisations).



For more information about registering as a fundraiser, see [our webpage on fundraising](#).

Also see [CAV's website](#) and [their resources on fundraising](#).



Tip

If your organisation is registered as a fundraiser under the Fundraising Act, it must keep records containing full details of certain matters about its appeals for support (sections 29 and 30 of the Fundraising Act). An organisation that fails to keep the required records can be penalised. Fundraising laws are not discussed further in this guide, but see [Tool 5: Checklist for records of fundraising appeals](#).

Keeping registers

A register is simply a list (or database) of information.

Every organisation must have a register of its members (see below).

Your organisation may choose to have a range of other registers, depending on the size of the organisation and how the organisation is run.

What registers must be kept by an incorporated association?

Register of members

Your organisation's must keep and maintain a register of members (section 56 of the AIR Act). The AIR Act sets out the minimum information which must be recorded in the register of members, which is:

- each member's name and address
- the 'class' of membership that member has (this only applies if the association's rules provide for different classes of membership of the association - for example 'full' and 'associate' members), and
- the date that person became a member

When a person leaves the organisation, the date they stop being a member must be entered into the register within 14 days. Once a person has stopped being a member, only the date they stopped and their



name should be recorded on the register – any other information about the person must be removed from the register of members within 14 days after they stop being a member.

Most organisations have rules dealing with the register of members. Model rule 18 says:

- the secretary must keep and maintain a register of members containing:
 - the name, address and email address of each member
 - the date each member’s membership started
 - whether the member is an associate member (a special class of member)
 - the date on which each member stops being a member, and
 - any other matters required by the committee
- members must be able to inspect the register free of charge (on request), and
- a member may make a copy of entries in the register



Caution

Members of associations can make requests that their personal details be restricted from the register if there are special circumstances (see section 59 of the AIR Act). If a member has validly requested that their details be restricted, the secretary must take care that this information cannot be accessed when the register is provided for copying or inspection.



Tip

Check your organisation’s rules (and any policies) about the members’ register. You may have different or extra requirements to those in the model rules. For example, your organisation’s rules may require the secretary to record the membership fee each member pays, the date they paid it, or both.

What is the purpose of the register of members?

The register of members (and the proper maintenance of it) is important because, among other things, it helps the secretary to work out:

- who should be sent notices of the organisation’s meetings
- who is eligible to vote at general meetings of your organisation
- the number of members at the end of each financial year (for the purposes of the details to be contained in your organisation’s annual statement to CAV), and
- the number of members in any or all classes of membership (if your rules allow different classes)

The register of members must be open for inspection by members (section 57 of the AIR Act). This enables transparency about who belongs to the organisation. See [Tool 6: Sample register of members \(required\)](#).

An example of a register of members is provided in this guide, see [Tool 6: Sample register of members \(required\)](#).

Restricting access to details on register of members

The AIR Act allows members to request in ‘special circumstances’ that their entry on the register be kept private. If your organisation has such private entries, you will need to keep a full register that is protected from inspection, and a register available for inspection with restricted entries removed or redacted. (See below – [Role of secretary – administering requests for restricting access to details on register of members](#)).



What registers should an incorporated association keep?

Relevant documents register

As discussed above, it is good practice for the secretary to maintain a register of 'relevant documents' of the organisation, as this helps to keep track of relevant documents that are required to be kept by the association.

In some organisations (particularly small, recently incorporated ones) it may be sufficient for the secretary to keep a single simple register of all 'relevant documents' of the organisation (see the table below as an example).

However, this single 'relevant documents' register approach may not work for larger organisations, or those that have been running for many years simply because of the sheer volume of relevant documents. In organisations with many 'relevant documents', the secretary can maintain 'sub-registers' such as those outlined in the second table below (and see Tools 6 to 12) that will make finding those documents easier.

Example of extracts from a register of 'relevant documents' of an incorporated association

Document type	Document name	Description	Location	Comments (including retention, renewal, review dates where applicable)
Incorporation and governance	Certificate of Incorporation	Certificate issued by CAV dated 1 July 2013	Folder 1 in the office	Registration number A1234567A
	Rules of the association	Current version (with changes approved by CAV at 2 December 2019)	Folder 2 in the office	See minutes of meeting of members on 1 November 2019 for special resolution approving changes.
	Policies and procedures manual	Contains current policies and procedures	Folder 3 in the office	Date for review: 1 January 2024
Documents lodged with CAV	Application for incorporation of association	Lodged with CAV on 1 June 2018	Folder 1 in the office	Retain for seven years: 1 June 2020
	Annual statement (2019)	Lodged with CAV on 2 November 2019	Folder 1 in the office	Retain for seven years: 1 June 2026
	Application for alteration of rules	Lodged with CAV on 2 November 2019	Folder 2 in the office	Retain for seven years: 1 June 2026
	Annual statement (2020)	Lodged with CAV on 2 November 20120	Folder 3 in the office	Retain for seven years: 1 July 2027
Property	Certificate of title	CT Vol 3603 Fol 150	Kept in safe custody at Mooncorp Bank,	Sporting club at 3 Riverside Street, Richmond, Melbourne



1 Bay Street,
Melbourne

If a document is lodged by email (for example a document lodged with CAV), you should keep both the sent email and the attachment (and note these details in the register). When using CAV's online lodging service myCAV, the secretary should keep a record of all information submitted (for example, by saving or printing out the updated details) and documents lodged.

Specific additional registers (optional)

Some organisations may find keeping additional registers helpful, such as registers of insurance policies or registers of assets. A list of example extra registers is set out in the table below.

It is always a good idea to discuss registers and record-keeping more generally with your organisation's auditor (if they have one) or the treasurer, to make sure that the best approach is taken.

Example of extra or specific registers of an incorporated association

Type of register	AIR Act requirements	Explanation and tips
Common seal See Tool 7: Sample common seal register (optional)	It is not compulsory to have a common seal, but if your organisation has one, your rules must cover its custody and use (item 12 of Schedule 1).	A 'common seal' is a rubber stamp with the name of the organisation on it. It is used for official purposes, such as signing a lease or title deed to property. See further – Information and details that must be included on an association's documents and advertising below. If your organisation has a common seal, it is good practice for the secretary to keep a register of when the seal is used. Ideally, the register should cross-reference to the relevant committee minutes authorising its use.
Assets See Tool 8: Sample assets register (optional)	There is no specific requirement to keep a register of any kinds of assets (but see above for requirement to keep financial records). The AIR Act covers how any surplus assets will be distributed if the organisation is wound up or dissolved (section 132 of the AIR Act) and where property vests if the organisation has its incorporation cancelled by CAV (section 140 of the AIR Act).	A register of the organisation's assets (for example, those worth more than a specific amount) is very helpful when: <ul style="list-style-type: none"> • your organisation needs to calculate surplus assets (especially if your organisation is large) • the treasurer prepares the annual accounts • both the secretary and the treasurer prepare your organisation's annual statement (to be lodged with CAV after each annual general meeting), and • an auditor wishes to check your financial records and assets (as the AIR Act requires for tier three associations) Although it is commonly the responsibility of the treasurer to maintain an assets register, often the secretary has an overall responsibility to keep all of the organisation's documents and records (for example, as contemplated in the model rules).
Insurance policies See Tool 9: Sample insurance register (optional)	There is no specific requirement to obtain, or have rules about insurance cover, but check your organisation's rules.	Check your organisation's rules, policies and operations for any requirements to take out particular insurance policies – for example, public liability, volunteers insurance, worker's compensation or directors' and officers' liability insurance. The Victorian Managed Insurance Authority (VMIA) provides insurance policies tailored to



		community service organisations. For more information, see VMIA's website .
		Also see our guide on Insurance and risk management .
<p>Banking details</p> <p>See Tool 10: Sample register of bank accounts (optional)</p> <p>Caution – details of bank accounts should never be kept in the same place as passwords or 'sample' signatures. It is poor practice and opens up a real risk of fraud.</p>	<p>There is no specific requirement to keep, or have rules about, a register of bank accounts or signatories. However rules must specify how its cheques are drawn and signed (item 21 of Schedule 1 of the AIR Act, and see for example model rule 69).</p>	<p>If your organisation has a number of bank accounts, debit or credit cards, it is good practice for either the secretary or the treasurer to keep a register of them. A register of bank accounts (and details about online banking facilities) can help the treasurer manage the organisation's cash flow. For example, if the organisation is required to keep a special account for project or trust moneys or fundraising funds, the secretary can note this in the register.</p> <p>Many organisations (including those using the model rules) have a rule requiring cheques to be signed by two members of the committee (usually one of these signatories is the secretary). It is good practice for the secretary to keep a register of signatories to keep track of who is authorised to sign cheques.</p> <p>Sometimes limits are made on bank account signatories' authority (for example, they may be authorised to transfer money only up to a specified amount). The secretary can record these limits in the register. It may also be useful to cross-reference the appointment of a signatory to the minutes of the relevant committee meeting.</p>
<p>Investments</p> <p>See Tool 11: Sample investments register (optional)</p>	<p>There is no specific requirement to keep, or have rules about, an investments register.</p>	<p>If your organisation invests any of its funds (for example, in term deposits, managed funds or shares), or has been donated or lent actual assets (for example, paintings), it is good practice for the secretary to maintain an investments register. It will help the organisation keep track of its investments (and, for example, the dates on which invested funds mature).</p>
<p>Keys</p> <p>See Tool 12: Sample key register (optional)</p>	<p>There is no specific requirement to obtain, or have Rules about, a register of keys.</p>	<p>If your organisation has a number of keys – for example, to buildings, filing cabinets, petty cash boxes, vehicles etc. – it's a good security measure for the secretary to maintain an up-to-date key register.</p>

Role of secretary – administering requests for restricting access to details on register of members

As a general rule, members' details are stored in the register of members, and that register can be inspected by members of the association (sections 56 and 57 of the AIR Act).

The AIR Act has a provision which allows members to seek to have access to their details on the register restricted (see section 59 of the AIR Act). Members can apply to the secretary of incorporated associations and request that their details not be available for inspection (by other members) if there are 'special circumstances'.

Section 59 of the AIR Act provides that a member can request that access to their information on the register be restricted to either:

- the secretary and the committee, or
- the secretary and the committee other than specified members of the committee

While the AIR Act does not provide a specific form for members to make this request, a request would normally be made in writing to a secretary.

The AIR Act does not define what ‘special circumstances’ are, and there is not yet any guidance from the courts. In our view, it is likely that seeking a restriction based on fears for safety would meet the requirements of ‘special circumstances’. A request that information be restricted without any supporting reasons would be unlikely to meet the ‘special circumstances’ requirement.



Example

Sally is the member of an association whose membership is limited to victims of family violence. Sally would prefer that her details not be available to other members, as she does not want to be identified as the victim of family violence. She sets out her circumstances in a letter to her secretary, and requests that access to her details on the register of members be restricted to the secretary and committee of the organisation. The secretary considers her request and accepts her application, agreeing that she has demonstrated ‘special circumstances’.

CAV’s powers of inspection, entry, search and seizure

If serious concerns are raised about an organisation’s compliance with the AIR Act or how funds are being used, CAV may consider using its powers of inspection, entry, search and seizure of documents in order to establish whether your organisation is complying with the AIR Act and the Regulations.

What are CAV’s powers?

While CAV’s powers under the AIR Act are rarely used, they are extensive.

CAV may apply to the Magistrates’ Court for an order requiring any person at a time and place specified by the inspector (see section 158 of the AIR Act) to:

- provide to CAV for inspection any specified documents or class of documents relating to the alleged breach of the AIR Act or the Regulations, and
- answer an inspector’s questions in relation to the alleged breach of the AIR Act or the Regulations

An inspector from CAV may also enter any place and search for and seize any relevant documents or anything that the inspector reasonably believes to be connected to an offence against the AIR Act (sections 162-167 of the AIR Act). This can be done either with the consent of the occupier, or without consent in certain circumstances, or in accordance with a search warrant issued by a magistrate under section 168 of the AIR Act.

Can an organisation be penalised for failing to comply with CAV regarding inspection, entry, search and seizure?

Yes – under the AIR Act it is an offence for an organisation (or anyone involved in its activities) to:

- refuse or fail to comply with any requirement of an inspector (for example, to produce relevant documents), unless they have a reasonable excuse (section 176 of the AIR Act)



- give information or documents to an inspector than an organisation (or anyone involved in its activities) believes is false or misleading (section 178 of the AIR Act)
- obstruct or hinder an inspector who is exercising their powers under the AIR Act, unless they have a reasonable excuse (section 179 of the AIR Act), or
- impersonate an inspector (section 180 of the AIR Act)

It is also an offence for anyone, in a document required under the AIR Act, to:

- knowingly or carelessly make, or authorise anyone else to make, a statement that is false or misleading in a relevant detail, or
- knowingly or carelessly omit (leave out), or authorise anyone else to omit, any relevant matter or thing from a document, and without that matter or thing, the document is misleading (section 208 of the AIR Act)

In the context of these offences, 'carelessly' means failing to take reasonable steps to make sure that information provided to CAV is accurate and complete.



Caution

The penalties for these offences are large. At March 2024, the penalty for each offence is \$11,538.60 (60 penalty units) (this amount is indexed each year on 1 July).

Can CAV refuse to accept documents lodged?

CAV can refuse to register or receive documents lodged by an organisation for reporting purposes for a number of reasons (sections 204 and 205 AIR Act). These include if CAV considers the document is not fully completed, is not able to be read clearly, or contains an error, alteration or erasure.

CAV can also refuse to accept a document if it considers the document is not a valid document of the organisation – for example, when an organisation splits into rival groups and each group seeks to lodge documents with CAV, claiming they are the official version. For more information, see [part 8 of this guide: Reporting to Consumer Affairs Victoria](#).

Information and details that must be included on an association's documents and advertising

The special requirements described below apply to documents and advertising known as 'official and business documents'. This includes documents which are:

- prepared in the name of, and on behalf of, the organisation, and
- issued to the organisation's members or to the general public in the name of the organisation

These include letters, advertisements, notices, flyers, invoices and stationery for the organisation.

The secretary is often responsible for organising these documents and must make sure that formal documentation complies with various legal requirements.



Note

The contents of documents that an incorporated association is required to produce under the AIR Act (for example, its annual statement) are not discussed in this part of the guide.

Those compulsory documents are discussed elsewhere in this guide. To find out which parts of this guide apply to your situation, see [part 1 of this guide: Overview of an association](#).

What are the special requirements for ‘business documents’?

The main legal requirements for the business documents of an incorporated association in Victoria are set out under the AIR Act and various other laws.

To make sure your organisation satisfies the relevant legal requirements, the following information should be displayed legibly on all official and business documents:

- full name of the organisation including ‘Incorporated’ or ‘Inc’ (whichever one is included at the end of your association’s name), and
- the incorporation registration number (which is specified on the certificate of incorporation received from CAV)



Note

Incorporated associations must include the word ‘Incorporated’ or the letters ‘Inc’ at the end of their name (section 22 of the AIR Act).

The AIR Act specifically requires an incorporated association to include its name and registration number legibly on the following documents:

- all the organisation’s notices (including notices to members)
- all the organisation’s advertisements
- all other official publications of the organisation (which include newsletters, flyers, brochures), and
- all ‘business documents’ of the organisation (section 23 of the AIR Act)

There are other specific requirements in certain situations, discussed below.



Caution

Your organisation can be fined for failing to include its full name and registration number legibly on any of the documents listed above.



Tip

A 'business document' (sometimes called a 'public document') is any document issued, signed or endorsed by or on behalf of your organisation, including (as set out in section 23(3) of the AIR Act):

- a business letter, statement of account, invoice or order for goods or services
- a bill of exchange, promissory note, cheque or other negotiable instrument, or
- a receipt or letter of credit

If the organisation has a common seal

A common seal is a rubber stamp that is used when signing documents in the name of the incorporated association.

If your organisation has a common seal, the full name of the organisation (which must include the word 'Inc' or 'Incorporated' as the last word) must be included on the common seal (section 23(1)(a) of the AIR Act).

What if the organisation is a 'Registered Australian Body' under the Corporations Act?

Some Victorian associations are registered as a 'Registered Australian Body' with the Australian Securities and Investments Commission (**ASIC**) under Part 5B.2 of the Corporations Act. This registration means that these organisations can operate in any state or territory in Australia – they are not restricted to operating only in Victoria. Registration also means that associations must meet some Commonwealth Government reporting requirements in addition to reporting requirements for incorporated associations in Victoria (which is the case for all associations without the registration).

If your organisation is a Registered Australian Body, the organisation must ensure that particular details are displayed on all of the organisation's 'public documents' and negotiable instruments (for example, cheques).

'Public documents' under section 88A of the Corporations Act are similar to 'business documents' under section 23(3) of the AIR Act – however, see section 88A of the Corporations Act for the specific definition for the purposes of that Act.

The details required to be displayed on public documents and negotiable instruments (in addition to any requirements for incorporated associations generally) are:

- your organisation's name
- your organisation's Australian Registered Body Number (**ARB**N) or, if the last 9 digits of your Australian Business Number (**AB**N) are identical to the last 9 digits of its ARBN, the words 'Australian Business Number' followed by your organisation's ABN
- your organisation's place of origin (that is, Victoria), and
- notice of the members' limited liability (section 601DE of the Corporations Act)

The secretary of an organisation is usually responsible for ensuring that the organisation complies with these requirements.



Tip

A Registered Australian Body's details are usually set out on public documents and negotiable instruments (such as cheques) in this form:

- [name of incorporated association] [notice of members' limited liability] [place of origin] [incorporation registration number] [ABRN/ABN number]

For example (if the last 9 digits of an organisation's ABRN are identical to its ABN):

'XYZ Inc Limited Liability (Vic) A1234567A, ABN 123 456 789'.

What if the organisation has an ABN or is registered for GST?

It is not compulsory for an organisation to have an ABN, unless it has a goods and services tax (**GST**) turnover of \$150,000 or more (in which case it is required to register for GST, and must have an ABN to do this). However, even if your organisation is not required to register for GST, you can still apply for an ABN.

According to the Australian Taxation Office (**ATO**), if an association has an ABN, the ABN should be included on:

- invoices
- quotes
- renewal notices (such as for subscriptions)
- order forms
- receipts
- contracts or lease documents
- letterheads, emails or internet records (web pages)
- records of over-the-phone quotation of an ABN, and
- catalogues (and other promotional documents) the organisation produces

For more information about ABNs, see the [ATO website](#). The Not-for-profit Law website also contains a link to an ATO fact sheet on ABNs on our [Setting Up webpage](#).

If your organisation is registered for GST

If your organisation is registered for GST under Part 2-5 of the GST Act, any invoices issued by the organisation that are 'tax invoices' must:

- be in the form approved under the GST Act, and
- set out your organisation's ABN and name (section 29.70 of the GST Act)

For further information about GST, see the [ATO webpage for not-for-profits](#). You must meet all other requirements for incorporated associations and (if applicable) Australian Registered Bodies.



What if the organisation has DGR status and can receive tax deductible donations from the public?

Some organisations are granted Deductible Gift Recipient (**DGR**) status by the ATO. This status allows them to receive tax deductible donations from the public and philanthropic bodies. For more information on DGR status and tax issues generally, go to [our webpage on tax](#).

If your organisation has DGR status, the receipt for a tax deductible donation must contain the following information (in addition to general requirements for public and business documents):

- your organisation's ABN
- the date the donation was received
- the name of the organisation or person making the donation
- the name of the fund
- the signature of a person authorised to act on behalf of the fund
- the name of the donor, and
- type of donation (money or property) and value

If your organisation issues a receipt for a donation in relation to an eligible fundraising event, there are extra requirements. For more information see the [ATO webpage on gifts and fundraising](#).



Part 5

Annual General Meetings

Annual General Meetings

This part of the guide covers preparing for, conducting and minuting annual general meetings (AGMs) of an incorporated association in Victoria.

Summary of key points in this part of the guide

What is an Annual General Meeting?

An annual general meeting (**AGM**) is a meeting of the members of an incorporated association required to be held each year unless one of the scenarios set out in section 63(2) of the AIR Act applies (section 63(1) of the AIR Act).

What is a notice of meeting (and a notice of motion)?

A notice of meeting is a written notice to members of the organisation that a meeting is going to take place at a specified date, time and place. A notice of motion is a notice, given by a member of the organisation that proposes some decision or action be discussed and voted on at the meeting.

Giving notice of an annual general meeting

Laws regulate the content of the notice of an AGM, the time and method of giving it, who the notice is to be given to, and what to do if the AGM (or a motion) is adjourned to another time and place.

This part of the guide sets out the special requirements for notices of AGMs of the organisation's members. A sample notice and checklist tools are provided in [part 9 of this guide: Tools](#).

Procedures for an annual general meeting

At an AGM, certain matters must be considered by members and elections of the committee may be held. A sample agenda, with guidance for the secretary, is provided at the end of this guide

Voting methods

There is a range of ways in which people who are entitled to vote at a meeting can do so. A variety of voting methods are set out in a tool in this guide.

What are 'minutes'?

Minutes are a written record of what was discussed and decided at a meeting, including the results of a vote. One of the key legal tasks of the secretary of an incorporated association is to make sure that accurate minutes are made of the organisation's AGMs, and that these are kept in a safe place.

Both the AIR Act and an organisation's rules set out legal requirements for the minutes of the organisation. Those requirements are discussed in this part of the guide.



Preparing and keeping minutes

This part of the guide sets out what should be included in meeting minutes and how they should be kept. It also contains tips and tools for drafting minutes, including 'action lists' which summarise people's responsibilities arising from the AGM.

What is an Annual General Meeting?

An AGM is a meeting of the members of an incorporated association required to be held each year (section 63(1) of the AIR Act).

However, an incorporated association may hold its first AGM at any time within 18 months following incorporation and any subsequent AGMs within five months after the end of each financial year of the incorporation (section 63(2) of the AIR Act).

An AGM is a particular type of 'general meeting' of the association (a meeting in which all members of the association are invited to attend, and that is convened in a formal way). An association may hold other general meetings throughout the year – usually these are called 'special' general meetings (**SGMs**) and are convened for a particular purpose. For information, see [part 6 of this guide: Special General Meetings](#).

The AGM must be convened using the procedures set out in the organisation's rules. An organisation will have its own rules and procedures for giving members notice of an AGM.

An AGM must:

- if required, elect new committee members (or board members) and possibly new office-bearers (that is, the president or chairperson, treasurer and secretary) for the following 12 months (see model rule 30), and
- report to members on the year's activities, including financial performance and events (see model rule 30)

AGMs also often:

- ensure the details of the secretary (contact person) are up to date
- propose and decide on any changes to the organisation's rules, and
- discuss any significant issues relevant to members

Notice of meeting and notice of motion

What is a notice of meeting?

A 'notice of meeting' is a written notice that a meeting is to take place at a specified time. A notice of meeting should set out information (such as the date, time, place or location and what is proposed to be done) so that those invited to the meeting know what it is about and can decide whether to attend.

The contents of a notice of meeting may vary significantly from organisation to organisation, depending on the type of organisation and how formal the AGM is. However, there are certain items of business that must be covered off in an AGM notice of meeting.

The AIR Act makes it an offence for an organisation to hold an AGM unless notice has been given to every member eligible to vote at that meeting (section 60 of the AIR Act).

In some cases, there are particular notice requirements under the AIR Act before certain resolutions can be passed at a meeting (see below: Giving notice of an annual general meeting).

What is a notice of motion?

A notice of meeting may include a 'notice of motion'. This is a notice, given by a member of the organisation, which proposes that a decision or action be discussed and voted on at the next meeting. Commonly the member gives a notice of motion to the secretary, either at the previous meeting (usually at the end) or a specified time before the next meeting. The motion is then included as an item of business for the next meeting (usually under a heading such as 'motions on notice').

A notice of motion gives the other members an opportunity to consider the member's motion before the meeting takes place and is generally only given if the matter proposed by the member is an important

decision for the organisation. A notice of motion may also be required by your organisation's rules or policies.



Note

The secretary of an incorporated association is usually responsible for preparing and giving notice of meetings under the organisation's rules.

This is an important job. If a notice of meeting is not correctly prepared and given, the meeting may be invalid and decisions made at it may be void (of no legal effect). See further below: What if a notice of an AGM might be invalid (defective)?

Giving notice of an annual general meeting

What are the legal requirements for giving notice of an AGM?

For AGMs, there are legal requirements about:

- when the notice must be given (See below: [When to give notice of an annual general meeting](#))
- the content of the notice
- how the notice must be given
- who the notice must be given to, and
- what to do if the meeting is adjourned



Terminology

The words '**service**' and '**servicing**' are used to describe the legal requirements for giving notice of a meeting.

'Service' simply means the process of giving a notice to someone who is invited to a meeting. For example, your rules may state that a notice must be 'served on' (given to) a person by post, email or in person.

You need to consider any requirements imposed by:

- the AIR Act
- the Regulations
- your organisation's rules , and
- any policies your organisation has about this issue



Remember

Check your organisation's rules for requirements about notices of AGMs.

Make sure you have the most up-to-date version of your rules, including any changes that the organisation's members and CAV have approved.

If you are confused about which rules apply to you and whether the copy you have is up-to-date, the best thing to do is to contact CAV and request a copy of your organisation's rules and purposes.



Tool 13

The checklist in [Tool 13: Checklist for notice of annual general meeting](#), will help you to prepare a notice for an AGM.

When to give notice of an annual general meeting

The AIR Act requires an incorporated association to hold its first AGM within 18 months of first being incorporated (section 63(3) of the AIR Act). After that, your organisation must hold AGMs within five months after the end of each of its financial years (section 63(4) of the AIR Act).

The rules of an incorporated association must set out the notice periods (being the number of days' notice an organisation must provide a member) of an upcoming general meeting. Many organisations have a rule (similar to model rule 33) that members should receive notice of an AGM at least 14 days before the date of the meeting (or 21 days if a special resolution is proposed – see more information below).

Also, many organisations have a rule (similar to model rule 30(3)) that the committee may decide the specific date, time and place to hold the AGM.

The organisation's financial statement must be submitted to members at the AGM (sections 94(1), 97(1) and 100(1) of the AIR Act). For more information about the financial statement, see [Part 8 of this guide: Reporting to Consumer Affairs Victoria](#).



Example

If your organisation operates on a calendar financial year (1 January to 31 December), your annual general meeting must be held by **31 May of the following year**.

If your organisation operates on a business financial year (1 July to 30 June), your annual general meeting must be held by **30 November of that year**.

How to measure time for giving notice

Calculating the number of days' notice can be confusing. First, check whether your organisation has its own rules about measuring time. The model rules do not have any provisions about measuring time.

If your rules do not address measuring time, it is good practice when counting days to exclude both:

- the day on which the notice is given, which will be the day on which the relevant person will receive the notice, and
- the day on which the meeting is to be held



If the notice is sent by post, the commonly accepted rule is that the notice period begins the day after the letter would have been delivered 'in the ordinary course of post'.

There have been recent changes to Australia Post's delivery times for regular mail such that it now takes two to four business days for a letter to reach an address in the state in which it was posted (including metropolitan areas) and three to six business days for interstate addresses. These timeframes should be factored in when notifying members of general meetings.



Example

Most organisations have a rule that a notice of general meeting should be sent to members at least 14 days before the meeting is held.

If a notice is personally delivered to a member on **1 January**, you would count 14 days from 2 January. That makes **16 January** the earliest date on which the organisation could hold the meeting. If the notice is sent by ordinary post, the notice would need to be sent at least six days before 2 February to ensure the member had received the notice at least 14 days before the date of the meeting.

What information should be in a notice of an annual general meeting?

A notice of an AGM should:

- be sufficiently clear and detailed so that any ordinary person who receives the notice and scans it quickly can know what is proposed to be done at the meeting and can then decide whether to attend
- be a full and fair disclosure of the matters to be discussed at the meeting, and
- not mislead any member of the organisation

These legal requirements have been developed by the courts to help establish good and fair procedures. To meet these requirements, it is best that an organisation's rules specify what details must be included in a notice of AGM. As a minimum, the notice must include the date, time and place of the AGM and if the rules require voting by proxy then the standard form proxy form must be given with the notice (section 60 of the AIR Act).

Most organisations have a rule that the notice must identify the meeting as an 'annual general meeting'.

The rules of some organisations also specify the 'ordinary business' which must be dealt with at an AGM (for example, see model rule 30, see also 'Procedures for an annual general meeting' below). If your organisation's rules specify items of ordinary business for an AGM, these should be included on the notice of meeting, as well as any other (or 'special') business to be dealt with at the meeting.



Remember

The only matters that can be discussed and voted on at an AGM are the ones set out in the notice of meeting. All items of business should be set out in the notice. Check your organisation's rules and procedures, as they may have extra requirements.



Tip

Commonly, agendas for AGMs include a catch-all item such as 'any other business' or 'general business'. This allows members to discuss any additional matters which arise at the meeting (such as setting a time and place for the next meeting).

However, the AGM should not pass resolutions on important matters which have not been previously notified to members. If additional matters of business are raised at the meeting, it is best for the organisation to convene a special general meeting (with sufficient notice to members) to consider the issues properly, and vote on any resolutions. For information on special general meetings, see [part 6 of this guide: Special General Meetings](#).

Your organisation may also have policies about the content of notices of AGMs. For example, it may be your organisation's policy to specify who authorised the notice.

The notice is usually sent to members together with documents which provide background information on the matters to be discussed at the meeting, such as:

- the minutes of the last meeting
- reports prepared by the committee, staff or volunteers, and
- financial reports



Tool 13

See [Tool 13: Checklist for notice of annual general meeting and sample notice for annual general meeting](#).

How to give notice of an annual general meeting

The rules of an incorporated association must set out the way in which notices of AGMs (and notices of motion) are to be given, published or circulated (item 19 of Schedule 1 of the AIR Act).

Many organisations have a rule that a notice of an AGM may be:

- provided in person
- sent by post to each member's address, or
- sent by fax, email or other form of electronic transmission

Check your own organisation's rules. The way in which notice must be given varies greatly, depending on the type of organisation and the formality of meetings. Some organisations' rules require a notice to be posted to each paid-up member; others require notice by an advertisement in a local newspaper; others may place a notice in their regular newsletter or on a club notice board.

Extra requirements apply if there will be a motion put at your AGM that requires a special resolution to pass. See 'Notice of AGM where motion requiring special resolution will be put to members – extra requirements' below.

Your organisation may also have supplemented its rules with policies about how to give notice of an AGM.



Tip

When giving notice of an AGM, it's good practice to give each member of the association an individual notice (rather than, for example, only putting up a notice on the club notice board). This prevents a claim by a member that they were unaware of an AGM.

With large organisations this may be expensive. Therefore, some organisations' rules may allow for electronic methods of providing notice to members (for example, the model rules allow for notices to be sent by email).

Who should be given notice of an annual general meeting?

Unless your rules say otherwise, you should give notice of an AGM to all members listed on the organisation's register of members. (The secretary usually has responsibility for maintaining the register of members – see [part 4 of this guide: Registers, Records and Official Documents](#)).

The AIR Act requires that notice be given to 'each member of the association entitled to vote at [annual] general meetings' (section 60 of the AIR Act). This is the minimum requirement. Some organisations may specify in their rules that only paid-up (financial) members or some other special membership class are required to receive notice of an AGM. Your organisation may also have 'life members', who may or may not need to be notified. Check your organisation's rules and policies about who should be given notice of an AGM.

What if an annual general meeting (or a motion) is adjourned to a later date?

Sometimes, an AGM may be adjourned to a later date – for example, if there are not enough members at the meeting to make decisions for the organisation (see '[How many people need to be at an annual general meeting?](#)' below).

In such cases, you will need to consider whether a new notice of AGM (or notice of motion) is required. For example, model rule 37 states that if a meeting is adjourned for 14 days or more, a fresh notice must be served. Check your organisation's rules for any specific provisions about this.

If the adjournment would mean that the organisation's AGM will be held more than five months after the end of the last financial year, the organisation must apply to CAV for an extension of time to hold the AGM (sections 102 to 104 of the AIR Act).

To apply for an extension of time, the secretary must download the '[Application for Extension of Time](#)' form from [CAV's website](#). Complete this form and submit it to CAV. The application for extension should be made before the date of the meeting rather than being made after the date on which the meeting would have been held. Your organisation must pay a small fee when applying for an extension of time.

Sometimes, even though the meeting goes ahead, a motion – of which notice has been given – may need to be adjourned (for example, if you run out of time at the AGM to address all motions proposed). If the motion concerns an item that must be addressed at the AGM, then the AGM should be adjourned and remaining essential motions addressed at the adjourned AGM. If the motion relates to ordinary business, the AGM can be concluded, and a future special general meeting can be held to address the remaining motions.

Notice of AGM where motion requiring special resolution will be put to members – extra requirements

There are extra notice requirements if particular types of decisions are proposed to be made at an AGM. One of these situations is when a motion requiring a 'special resolution' is proposed.

Special resolutions are required under the AIR Act for an organisation to make certain decisions – such as changing the organisation's name, rules, removing a committee member from office or winding up the organisation).



Why have extra requirements for special resolutions?

The policy reason for having extra requirements for a notice of a meeting proposing a special resolution is that special resolutions are used to make important decisions under the AIR Act. So, it's important to give members more time and information about the matter so that they can consider it carefully before the meeting.

See '[Procedures for an annual general meeting](#)' below for information about passing a special resolution at an AGM (and then seeking approval from CAV, where applicable).

You need to check whether your rules permit these types of 'special' business to be dealt with at an AGM. Depending on these rules, you may need to hold a special general meeting to deal with special motions.

When to give notice of a proposed special resolution

A notice of a meeting that will include a motion requiring special resolution to pass must be given to all members who are entitled to vote at least 21 days before the meeting (section 64(2) of the AIR Act).

Otherwise, the resolution can't be passed as a special resolution at the meeting.

What information should be included in the notice?

To pass a special resolution at an AGM, section 64(3) of the AIR Act requires the AGM notice to:

- specify the date, time and place of the AGM
- set out the actual wording of the proposed special resolution in full, and
- state that it is intended to propose the resolution as a 'special resolution'

Check your organisation's rules carefully for any extra requirements about notices of proposed special resolutions.



Caution

If a special resolution is proposed for an AGM, your organisation must comply with the notice requirements in section 64(2) of the AIR Act. Otherwise, the resolution can't be passed as a special resolution at the AGM.



See also [part 6 of this guide: Special General Meetings](#) and [part 7 of this guide: Committee Meetings](#).

Is it a special resolution to amalgamate the association with another organisation?

If the motion requiring special resolution is proposing to amalgamate (or 'join') an organisation with other organisations (one or more), the notice should:

- nominate the first secretary of the amalgamated organisation
- include the terms of the amalgamation, and
- attach a copy of the proposed rules of the amalgamated organisation

An application to amalgamate can only be approved by CAV under section 18 of the AIR Act if the application includes the relevant details about the amalgamated organisation (name, first secretary's details) and is accompanied by evidence of the passing of the special resolution approving the proposed terms of the amalgamation as well as the rules of the amalgamated organisation.

Who should notice be given to?

The AIR Act requires a notice of general meeting proposing a special resolution to be given to all members of the organisation who are entitled under the organisation's rules to vote on the resolution (section 64(2) of the AIR Act).

Check whether your organisation has particular classes of members who are, or are not, eligible to vote on the matter.

Notice of proposal to remove an auditor – extra requirements

There are extra notice requirements if there is a motion to remove the association's auditor. This type of motion can be passed by resolution. If your AGM will include a motion to remove an auditor, notice of the AGM needs to be sent earlier, to every member, and needs to include extra information.



Why have a longer notice period?

This long notice period is designed to make sure that the organisation's members, the auditor and CAV have time to consider the proposal, and the auditor has time to prepare any response before the AGM at which the decision is to be made.

When to give notice of a proposal to remove an auditor

Written notice of a proposal to remove an auditor must be given to members of the association at least two months before the AGM at which the resolution is proposed to be passed (section 106(2) of the AIR Act). This means that the AGM notice will need to be prepared earlier than usual. There are other steps which must be taken before a meeting proposing to remove an auditor can be held (sections 106 and 107 of the AIR Act):

- a notice proposing a resolution to remove an auditor must state the proposed resolution in full, and
- if an auditor decides to make a written representation, a notice must be given to members of the organisation personally, by post or in any other way that is allowed under the organisation's rules

Who should be given notice?

Written notice of a proposal to remove an auditor must be given to every member of the incorporated association (section 106(2) of the AIR Act). In addition, as soon as possible after the notice is given to members, the secretary of the organisation must give a copy of the notice to:

- the auditor, and
- CAV (section 106(4) of the AIR Act). CAV has advised that this can be done in person, by post, or email (attaching the notice as a PDF)

The auditor may write to the secretary of the organisation within seven days of receipt of the notice about the motion (section 107(1) of the AIR Act).

Unless CAV orders otherwise:

- the secretary of the organisation must provide a copy of the auditor's letter to all members of the organisation before the AGM, and
- the auditor must be allowed to attend and talk to the meeting before a vote on the resolution is taken (section 107(2) of the AIR Act)

What if a notice of an AGM might be invalid (defective)?

If there is a defect with a notice of AGM (for example, it did not contain the details required by the AIR Act or was sent without providing sufficient notice), the notice may be 'invalid'. If this happens, any actions taken and decisions made at the subsequent meeting may be void (that is, of no legal effect).

If a member of your organisation alleges that a notice of an AGM is invalid, it can be difficult to work out whether the alleged defect is something that would make the meeting void. The answer will depend on the seriousness of the alleged defect.

Is it possible to waive any defects in a notice?

If you have realised that your notice of AGM was defective, there are steps you can take to fix the defect. If all the members entitled to attend the AGM (not just those who actually attend) agree to 'waive' a defect in the notice (that is, essentially to ignore it), the invalidity may be overcome. The courts have long recognised this as a way of 'curing' defects in a notice. However, waiving a defect can prove difficult for an AGM that is large or more formal.

A defective notice of an AGM that includes a proposed special resolution is unlikely to be cured by a waiver. If 21 clear days' notice has not been given, you should seek legal advice. You may need to hold the meeting again or confirm the resolution at a future general meeting (see below).

Is it possible to overcome alleged defects in any other way?

One method of overcoming any alleged defects in a notice is to continue to hold the (possibly) invalid AGM (if those present agree) and to keep records of the decisions made at the meeting. At the next validly convened general meeting, a motion can be put adopting the decisions made at that earlier (possibly) invalid AGM.

Of course, until that subsequent meeting validates the decisions of the previous (invalid) AGM, the decisions of that previous meeting will have no legal standing or effect. This approach is therefore usually taken only if there is likely to be no dispute about the previous decisions.



Tip

If there is ever any concern about the validity of any notice, you should seek legal advice.

Procedures for an annual general meeting

Procedures for AGMs of incorporated associations in Victoria can vary considerably, depending on the type of organisation, who is attending and what is being discussed. Generally, the larger the group, the more formal the AGM procedures (so that order is maintained and the meeting can deal with its business efficiently).

The person who chairs the AGM (usually called the chairperson or president) guides the style of the meeting. As long as the legal requirements are met, the chairperson may run the AGM in as relaxed or formal a style as the particular situation allows.

When establishing meeting procedures, you need to take into account any requirements imposed by:

- the AIR Act
- the Regulations, and
- your organisation's rules

Each organisation also develops its own customs, practices and 'culture' over time. These may not be formally reflected in the rules of the organisation.

It is important to ask about your organisation's policies and procedures (written and unwritten), as well as the rules, to find out how your organisation usually conducts meetings and the AGM in particular.



Tip

Some customs and practices are intentionally designed to promote efficiency of time and effort, to focus on certain key meeting issues, or for other strategic purposes.

For example, an organisation may table certain reports and take them as read (that is, the AGM does not deal in detail with the report, but members may ask questions).

What is the role of the secretary?

The role of the secretary is discussed in detail in [part 3 of this guide: Secretary's Legal Role, Powers and Duties](#). In particular, for AGMs, the secretary is usually responsible for the following tasks:

- preparing and distributing any reports or documents to people who are invited to the meeting dealing with any correspondence
- assisting in and recording the outcome of any votes taken, and
- taking minutes of the meeting (or arranging for someone else to take them)

Rules and annual general meetings

Check your organisation's rules and follow the requirements about your AGM, including:

- the agenda for the meeting
- the 'quorum' for the meeting (that is, the minimum number of members who must be present)
- how resolutions are passed
- voting methods, and
- how meetings can be adjourned

Each of these matters are discussed in more detail below.

Agenda for the annual general meeting

The agenda for the AGM is different to the agenda for other general meetings because the business dealt with at the AGM is different to the business of other types of meetings.

Your organisation's rules may specify the ordinary business to be conducted at the AGM. For example, model rule 30 says that the 'ordinary business' of the AGM is:

- to confirm the minutes of the previous AGM, general meeting and of any special general meeting held since that meeting
- to receive reports from the committee about the transactions of the organisation during the last financial year
- to elect officers of the organisation and the ordinary members of the committee, and
- to receive and consider the annual (financial) statement of the organisation under Part 7 of the AIR Act

Model rule 30 also allows organisations to determine the process for setting the amounts (if any) of annual subscription and joining fees.

Check your own organisation's rules to find out whether any other business (often called 'special' business) can be conducted at an AGM, and the type of notice required. For example, model rule 30 says that the AGM may also conduct any other business, so long as notice has been given in accordance with the rules.

See above '[Notice of AGM where motion requiring special resolution will be put to members – extra requirements](#)' for examples of special business.



Tool 14

For a sample agenda for an AGM, see [Tool 14: Sample agenda for annual general meeting](#) (with explanatory notes for the secretary).

Note – this sample is a guide only. Adapt the sample to suit your organisation's rules and requirements.

How many people need to be at an annual general meeting?

Before you can deal with any business at an AGM, there must be a minimum number of the organisation's members present. This number is called the 'quorum'.

Your organisation's rules must specify the quorum for AGMs and other general meetings (item 18 of Schedule 1 of the AIR Act). Model rule 36 says that the quorum is 10% of members entitled to vote be present physically or by proxy. Remember the AIR Act now permits meeting attendance by technology (for example, by phone or video conferencing). Check your own organisation's rules for the quorum number and whether they may be present by proxy.

What happens if there is no quorum?

If there is no quorum at an AGM, your organisation's rules should set out what will happen. For example, the model rules (rule 36) provides that:

- no item of business may be conducted at the meeting unless a quorum of members entitled to vote is present when the meeting is considering that item
- if, within half an hour after the time set for the start of the meeting, a quorum is not present, then either:
 - if the meeting has been convened at the request of members, the chairperson must cancel the meeting, or
 - in any other case, the chairperson must adjourn (reschedule) the meeting but no more than 21 days after the adjournment

Model rule 36 says that if a quorum is not present by the end of the first half hour of the rescheduled meeting, then, if there are at least three members present, those members shall be a quorum. This means that the rescheduled AGM will be able to deal with the items of business, so long as at least three members are personally present.

You must check your organisation's own rules.

Motions and resolutions

The words 'motion' and 'resolution' are often (incorrectly) used as if they mean the same thing. They do not. They have separate, but related, meanings.



What is a motion?

A motion is a proposal that a member puts at a meeting in order that some action be done or decision made about an issue.

See discussion of '[What is a notice of motion?](#)' above in this part of the guide.

The technical procedure for a motion is that:

- a member moves the motion, and
- another member seconds that motion

If a member (or members) wishes to change the wording of the motion:

- a member moves an amendment to the motion, and
- another member seconds that amendment



Example

The XYZ Club calls a general meeting at which a motion is put forward by a member 'that this meeting approve the lodgement of a zoning application for the association's Club House with the Melbourne City Council'. Another member seconds the motion. Then the meeting can vote to approve or pass the motion (or not).



What is a resolution?

A resolution is a motion that the meeting has approved or 'passed'.

A resolution is therefore the result of a motion (or an amended motion) put before, and approved by, the meeting. Once the resolution is passed, the meeting has made a binding decision.

There are two main types of resolutions:

- ordinary resolutions (often simply called a 'resolution') (50% threshold), and
- special resolutions (75% threshold)

The requirements for passing ordinary and special resolutions are different, and are discussed in more detail below. For information about drafting motions and resolutions, see '[Preparing and keeping minutes](#)' below.

How is an ordinary resolution passed?

Unless your rules say otherwise, an ordinary resolution is passed by a 'simple majority' of members who vote at an AGM. A simple majority is when more than half of the members present and voting at the meeting, vote 'in favour of' (for) the resolution.

For example, if there were 20 members voting on a motion, you would need 11 (or more) members voting in favour to pass an ordinary resolution.

Check your organisation's rules for any particular requirements for passing resolutions (either ordinary or otherwise).



Example

For example, your rules may require a majority of all members entitled to vote (rather than a majority of members who actually vote) to pass a resolution.

This means that – if you have 50 members, and 30 turn up to your meeting, you will still need 26 votes (that is, more than half the 25 members eligible to vote) to pass a resolution. This is sometimes known as a resolution by 'absolute majority'.

How is a special resolution passed?

A special resolution must be passed in accordance with the requirements in section 64 of the AIR Act.

As discussed above, special resolutions are required under the AIR Act for certain important decisions, such as changing the organisation's name or rules. Your organisation's rules may specify other situations, or types of decisions, which require a special resolution.

To pass a special resolution at an AGM, the AIR Act requires:

- notice of the proposed special resolution be given in the proper way (see '[Notice of AGM where motion requiring special resolution will be put to members – extra requirements](#)' above),
- not less than three quarters (75% or more) of members who are both:
 - entitled to vote, and
 - who actually do vote at the meeting, either in person, or by proxy if allowed (see below, '[Proxy voting](#)')
 vote 'in favour of' (for) the special resolution (section 64(4)(a)(i) of the AIR Act), and
- any additional requirements in the organisation's rules about passing special resolutions be met (section 64(4)(a)(ii) of the AIR Act)

Your organisation's rules can impose additional requirements (for example, a requirement to include certain extra information about the proposed special resolution in the notice of meeting), but cannot reduce or increase the 75% provision.

If it would be too difficult (impracticable) for your organisation to pass a special resolution in the way required by section 64(4)(a) of the AIR Act, you can ask CAV for approval to pass a special resolution in another way (section 66 of the AIR Act). CAV has advised that an organisation may get approval if, for example, it needs to pass a motion to wind up (end) the organisation but there is a problem with the organisation's records and it is difficult to identify all the members of the organisation.



Remember

Some decisions passed by special resolution (for example, changing the organisation's rules) are not official under the AIR Act until they have been approved by CAV. Depending on the type of decision, you may need to notify CAV that the special resolution was passed at the meeting and seek approval of the change.

Voting at annual general meetings

If members at an AGM want to make a decision about a matter, a motion or an amendment, it is usual for each member to cast a vote — generally 'in favour' (for) or 'against.'

Check your organisation's rules for any requirements about voting procedures. For example, model rule 38 provides that:

- each member has only one vote
- all votes must be given personally or by proxy (see below, '[Proxy voting](#)'), and
- if there is a tied vote (that is, an equal number of votes 'for' and 'against'), the chairperson may vote again to decide the matter (sometimes called the 'casting vote')

Additionally, model rule 12(4) says that a member's rights (including voting rights) are suspended if they have not paid their annual subscription fee.

For information about voting methods see below, '[Voting methods](#)'.

Adjourning annual general meetings

Check your organisation's rules for any special requirements about adjourning (rescheduling) AGMs.

The rules of an incorporated association will usually require the chairperson to adjourn an AGM if there is no quorum present after a specified time. Model rule 37 also provides that:

- if a majority of the members present consent, the chairperson may adjourn the meeting to another time and place
- at the rescheduled meeting, the only business that may be dealt with is the unfinished business from the meeting that was adjourned, and
- if a meeting is adjourned for 14 days or more, then a notice of the rescheduled meeting must be given in accordance with the rules for notices of general meetings

Some organisations' rules allow for an AGM to be adjourned in other circumstances as well. You need to check what your rules say.

Voting methods

There are various ways in which votes can be taken at an AGM. The most common methods are voting by show of hands or by count (that is, a vote in writing). These and other methods (such as voting by voices) are discussed in more detail in [Tool 16: Table of voting methods](#).

Check your own organisation's rules and policies about voting methods. Your rules may require certain methods and not allow others. They may also require different methods of voting at different types of meetings.



Tip

The usual procedure for voting at an AGM is that the chairperson will:

- clearly state the motion to be put to the meeting
- take a vote from those present and entitled to vote
- determine the result, and
- announce the result of the vote

How to vote on a special resolution

Voting on a special resolution should be conducted as required or permitted by your organisation's rules. The AIR Act says that a special resolution is passed if the chairperson declares it has been passed, unless a member of the organisation demands that the votes be counted (section 65(3) of the AIR Act, see also below about polls).

Counts and ballots

A 'count' is a method of voting on a motion (and any amendments) at a meeting.

It is usually the role of the chairperson to determine whether a count is required, to direct the conduct of the count and to supervise the counting of the votes. The way in which individual members voted in the count is not usually disclosed.

In many organisations the rules allow a member to demand a count. Commonly, a count may be demanded by:

- a member who questions the result of a particular vote count (for example, if the AGM is large and there is a close vote on a show of hands), or
- a member who believes that any proxies held may alter the outcome of the vote (because a holder of several proxies has only one vote in a show of hands)

Sometimes a count must be conducted if a certain number of members request it.

A 'ballot' is a method of voting for elections of office bearers and committee members. A ballot is usually confidential, in which case it is referred to as a 'secret ballot'. In a secret ballot, the name of the voter is not disclosed, compared to a count where the voter's name is usually written on the voting paper so the voter's right to vote can be checked (for example, that they are a paid up member).

Contested elections at an AGM (that is, if there is more than one person nominated for a position) are often conducted by secret ballot.



Tool 16

For more information about how to conduct a count and ballot, see [Tool 16: Table of voting methods](#).

Abstaining from voting and opposing

Some members may decide not to vote at all (that is, 'abstain from voting') and they may wish to have the secretary record their names in the minutes as having abstained.

Other members may oppose the motion and request that their opposition be noted.

What if a vote is tied?

If a vote is tied, most organisations' rules say that the chairperson has a second (or 'casting') vote to decide the matter. This is the position in the model rules. Commonly, the chairperson will exercise this vote to maintain the existing situation (so that a controversial resolution will not be passed).

What if a member is unable to attend an annual general meeting and vote in person?

If a member of an organisation is unable to attend an AGM to cast their vote in person, that member may, depending on the rules of their organisation, vote by 'proxy'. See '[Proxy voting](#)' below.

As an alternative, an organisation may, if its rules permit, allow direct voting so that members who will be absent from an AGM can cast their own vote. The vote can be cast by completing and lodging a voting form prior to that meeting.

More information about direct voting, including how an organisation can amend its rules to implement a system of direct voting is provided below, '[Direct voting](#)'.

Proxy voting



What is proxy voting?

If a member of an organisation is unable to attend an AGM and vote on an issue personally, that member may (see below) be able to appoint another person to cast a vote on their behalf (that is, 'vote by proxy') at the meeting.



Terminology

When talking about proxies, it's important to know the following definitions:

- the 'donor' is the member of the organisation who appoints another person to vote on their behalf
- the 'proxy holder' or 'proxy' is the person who is appointed by the donor to vote on behalf of the absent member, and
- the 'proxy form' is the document by which the donor appoints the proxy

What are the legal requirements for proxy voting?

A member of an incorporated association has no general legal right to appoint a proxy (but see below, '[Powers of attorney](#)'). The power or right to appoint a proxy can be given only by the organisation's rules, so you should check if your rules allow for proxy voting.

The AIR Act requires the rules of an incorporated association to specify whether or not absent members are allowed to vote by proxy (item 18 of Schedule 1 of the AIR Act). Check your organisation's rules carefully for any provisions about proxy voting.

The rules of some organisations specify a deadline for receiving proxy forms before the AGM. The model rules do not contain a time limit for proxy forms provided in person, however model rule 34(7) requires that forms sent by post or electronically be received 24 hours before the meeting to have effect. Having a deadline in your rules avoids the secretary having to receive many proxy forms at the meeting, which can slow the progress of the meeting.

The rules of some organisations may also allow:

- non-members to act as proxies
- a general proxy (which gives a member the right to appoint another to vote as they see fit on all aspects of the organisation's business for a certain period of time)
- a specific proxy (which allows a person to cast a vote only at a particular meeting in a particular way), or
- the chairperson to hold the general proxies of many absent members (and therefore enable the chairperson to exercise the proxy in any manner they see fit)



Tool 16

See [Tool 16: Flowchart for reviewing proxies](#) in this guide. Be sure to check the flowchart against your organisation's rules and policies before relying on it. If your rules are different, adapt the tool to suit your own circumstances.

What if the donor attends the annual general meeting themselves?

If the donor attends an AGM and they have appointed a proxy for that meeting, and the donor votes on an issue, the proxy holder may not vote on their behalf. The proxy holder may continue to act in accordance with the proxy form to vote on subsequent matters at the meeting as long as the donor does not vote on those matters.

Is the chairperson required to exercise the proxies they may hold?

If the chairperson has been appointed a proxy holder by a number of absent members, there is no broadly applicable rule about whether the chairperson must vote on behalf of these donors. It will depend on the wording of the document that appoints them as proxy.

It's good practice for the proxy form to set out whether the chairperson must vote in a particular way or whether the chairperson may (or may not) vote in a particular way on the resolution. If the chairperson may vote but does not have to, this means they have a 'discretion' about exercising the proxy. If a donor appoints the chairperson as their proxy to vote on a resolution in a particular way, the chairperson must vote in that way.

cancelling a proxy

Generally, a donor may cancel (or 'revoke') a proxy before it is exercised by:

- giving both the proxy holder and the organisation a written notice of revocation (which becomes effective as soon as it is received and which, strictly, must be received by the organisation before the AGM at which the proxy was to be used)
- granting a subsequent and superseding (overriding) proxy to the same or another person, or
- resigning from the organisation

If a donor dies, the proxy automatically ends.

Check your organisation's rules carefully for any provisions about revoking proxies. For example, some organisations' rules require a donor wishing to cancel a proxy to give notice to the organisation by a certain deadline before the meeting.

If the donor has appointed a proxy for a specific AGM (see discussion of 'specific proxies' above), the appointment will only be valid for that meeting.

Powers of attorney



What is a 'power of attorney'?

A person can appoint another person (or more than one) to have 'power of attorney' for them — that is, to make decisions on their behalf, either indefinitely or for a specified period of time. This must be done in writing, signed and dated. This is another way to enable a person to vote on behalf of a member who is not attending an AGM.



For more detailed information on powers of attorney, and sample forms, see [the Office of the Public Advocate website](#).



Terminology

When talking about powers of attorney, note:

- the 'donor' is the person who appoints another person to make decisions on their behalf
- the 'attorney' is the person who is appointed by the donor, and
- the 'power of attorney' is both the document by which the attorney is appointed, and the actual grant of power

The attorney may exercise the powers of the donor, and vote on their behalf at an AGM.

A donor may cancel (revoke) a power of attorney at any time in writing.

If a person says they have power of attorney to act on behalf of a member of your organisation, it's good practice to:



- ask that person for a written declaration that they have the powers they claim, and
- request to see, and then carefully read, the original copy of the power of attorney to:
 - confirm that the power exists
 - make a note of the extent of the power granted to the attorney, and
 - make a note of the period of time (if any is specified) that the power operates

The attorney may sometimes appoint a proxy or be a proxy holder. Sometimes a power of attorney gives a person the power to act on the donor's behalf on all matters (this is a 'general' power of attorney). In this situation, the attorney would have the authority to appoint a proxy, or to be a proxy holder.

Direct voting



What is direct voting?

Direct voting is a method of voting which enables members to exercise their voting rights without having to either attend the AGM, or give their right to vote to someone else (ie. a proxy or attorney).

With direct voting, members exercise their vote by submitting a binding voting form to the organisation before the AGM, in an approved manner.

Why is direct voting beneficial?

Direct voting makes it easier for a member to vote (and have their vote counted) when they can't attend an AGM.

In contrast to proxy voting (where a person gives the proxy their power to vote at an AGM – but does not necessarily oblige that person to attend the meeting and vote on their behalf), with direct voting, an absent member can simply lodge their vote in writing before the AGM. Direct voting can therefore foster greater member participation in decision-making – and also avoids a situation where, for example, a proxy holder falls ill on the day of an AGM and can't attend.

Direct voting does not necessarily replace the proxy system. It can sit alongside it. Direct voting simply provides an additional voting option to members who know they can't attend an AGM.

Implementing direct voting

Direct voting is not available to members unless your organisation's rules provide for it.

If your organisation's rules don't currently allow for direct voting, and you would like to adopt a direct voting system, you will need to change the rules to implement direct voting. Consider how you want the procedure to work – for example – do you want your rules to outline the form and process for direct voting, or leave it to the committee of management to determine this form and process in the future as it sees fit?



Remember

Check the voting provisions in your organisation's rules. If your organisation uses rules that do not allow for direct voting (such as the model rules), you will need to change your organisation's rules to implement direct voting procedures.



Tool 17

For sample wording of a new rule to allow direct voting, see [Tool 17: Sample wording for allowing direct voting in your rules](#) of this guide.



Remember

In order to change your rules, a special resolution must be passed in accordance with the requirements of section 64 of the AIR Act. See above for more information on the specific requirements for passing a special resolution.

Minutes



What are 'minutes'?

The word 'minutes' has been used for centuries to mean a summary of the proceedings of an assembly or committee.

Today, minutes are a formal written record of the matters discussed and decisions made at a meeting.

One of the main legal tasks of the secretary of an incorporated association is to make sure that:

- minutes are taken of each meeting (including the AGM) of the organisation
- minutes are confirmed by the organisation as an accurate record of the meeting, and
- the minutes of all meetings are kept safely by the organisation for future reference

The legal requirements for preparing and keeping minutes of AGMs arise under the AIR Act and the organisation's rules.

Your organisation may also have particular policies and practices for taking and keeping minutes.

There are other laws which you should be aware of when preparing and distributing minutes, including defamation and privacy laws. These are discussed briefly in this part of the guide.

AIR Act requirements

The AIR Act requires the rules of incorporated associations in Victoria to include provisions about keeping accurate minutes of AGMs and allowing members access to such minutes of the organisation (items 14 and 15 of Schedule 1).

If your organisation's rules do not cover any of the matters in Schedule 1 of the AIR Act, the provisions of the model rules that address those matters will apply to your organisation automatically.



Requirements

The AIR Act requires an organisation's rules to cover all the matters listed in Schedule 1, either by adopting the model rules, or having a provision in their own rules that covers listed matters.



In addition, an inspector from CAV may, with a Magistrates' Court order, require the organisation, or any person who is involved in the organisation's activities (which includes the secretary to give the inspector specified relevant documents (which could include minutes) of the organisation (sections 158 and 159 of the AIR Act). CAV may choose to use these powers to make sure that the organisation has complied with the AIR Act and the Regulations.

It's therefore important that the secretary ensures accurate minutes are taken of the organisation's AGMs, and that they are kept in a safe place.

Your organisation's rules

Many organisations have a rule, similar to model rule 41, which requires the secretary to keep minutes of resolutions and proceedings of each AGM.

Model rule 41 also requires a secretary to keep as part of the minutes of the AGM:

- the names of members attending the meeting
- proxy forms given to the chairperson
- the financial statements submitted to members
- the certificate signed by two members certifying the financial statements are true and fair view of the financial position of the associations, and
- any audited accounts and auditor's report or reviewer's report that were required under the AIR Act

AGM minutes are a 'relevant document' of the association, and members can inspect and make copies of the minutes. See [part 3 of this guide: Secretary's Legal Role, Powers and Duties](#) for more information about a secretary's responsibility to store and provide access to minutes.

Your organisation's policies

Check your organisation's policies and practices about taking and keeping minutes. If you don't have any, your organisation may choose to create policies, using this guide for assistance.

Preparing and keeping minutes

The form of minutes varies depending on the type of organisation and the type of activities it undertakes.

Content of the minutes



Tool 19

For detailed information about the usual matters to include in the minutes of meetings, see [Tool 19: Checklist for content of minutes](#).

Importantly, the minutes should record the motions moved and resolutions made at the AGM.

Drafting the content – generally

The format and style of minutes vary considerably among organisations. Some minutes are very brief and precise, and record the bare minimum of information. Other minutes include 'blow by blow' summaries of the debate (which is unnecessary and we recommend avoiding).

It's only necessary to include a transcript of everything that was said at an AGM in the minutes in exceptional circumstances. Check your organisation's rules, policies and practices.



Tool 20

Despite variety in the form of minutes, there are some commonly accepted drafting conventions – see [Tool 20: Conventions for drafting minutes](#).



Tip

The minutes are an official historical record of the organisation, so it's good practice to record in the minutes the name and position of office bearers (chairperson, secretary, treasurer) as well as names of members and any other people present (such as observers).

Drafting motions and resolutions

The exact wording of the motion should appear in the minutes. If there is a problem with the wording of a resolution (that is, a motion which is passed at the AGM), this will have to be corrected at a later meeting. The secretary has no power to alter the wording of a motion passed at the AGM in order to correct a mistake.

The wording of the motion must comply with your organisation's rules, including its purposes — it can't recommend any action outside the scope of your organisation's powers and activities. The motion must also be allowed to be made by the AGM, especially if the meeting has been called for a specific purpose.



Tip

If a motion is proposed verbally at a meeting, the secretary may find it helpful to:

- write the motion down on a board or flip chart and show it to the meeting during the debate, or
- require the motion to be given to them in writing by the member proposing it

This way, any corrections to the wording of the motion can be made before voting on the matter. It also gives the secretary a chance to draft the motion in a way which can be suitably recorded in the minutes.

For each motion, the minutes should record:

- the names of people who move and second the original motion and any amendments
- the method of voting (for information about voting methods, see 'Voting methods' in this guide), and
- whether the motion was passed (in which case it becomes a resolution), rejected or was adjourned (that is, put off until another meeting)

See [Tool 20: conventions for drafting minutes](#).



Tip

It's useful for the secretary to circulate draft minutes with an 'action list' to the people or sub-committees who have been given specific tasks at the AGM.

Drafting minutes of difficult meetings

Sometimes AGMs get heated and the participants resort to personal attacks, walk-outs, threats and inappropriate remarks. In many instances, the chairperson may require such remarks to be withdrawn (therefore the remarks are not recorded). In other cases, it's sufficient to record that 'a vigorous discussion ensued' rather than a blow-by-blow account in the minutes (which is unnecessary and we would recommend avoiding). See [Tool 20: conventions for drafting minutes](#).



Tip

For difficult meetings, the secretary could consider:

- asking the chairperson for specific help to draft the minutes (in any case, it's good practice for the secretary to always check the minutes they have drafted with the chairperson before distributing them to others), and
- unless a motion was made or resolution passed, not including the controversial material altogether. The minutes will have to be approved at the next meeting and, if it's considered necessary to include more detail, it can be agreed then

Defamation

Sometimes a secretary will have to deal with potentially defamatory matters in the minutes of AGMs.

A chairperson should challenge any potentially defamatory statements at the time they are made in an AGM and have them withdrawn. The statements will then not be recorded in the minutes.

If an organisation has published defamatory statements in the minutes of an AGM, the defence of 'qualified privilege' may be available, however the organisation should seek specific legal advice. In most cases, potentially defamatory statements do not need to be included in the minutes.

Generally a 'defamatory statement' about a person is one that:

- exposes the person to hatred, contempt or ridicule
- tends to lower them in the opinion of other people
- harms their reputation (for example in their profession), or
- causes them to be shunned or avoided by others



Remember

The law of defamation is complex. If a secretary is concerned about any potential defamatory matters when drafting minutes, they should seek legal advice before finalising and distributing the minutes to anyone.

Storing minutes

Minute books

Finalised minutes are often entered into a 'minute book'. Until recently a minute book was a securely bound book with sequentially numbered pages. The minutes were handwritten into the book to guard against fraud or tampering. While some small organisations still use handwritten minute books, many organisations create and store minutes electronically and distribute them by email.

**Tip**

Experience shows that it is best to write up the first draft of minutes as soon as possible after the AGM. Memory is fresh and the task can be done more quickly and efficiently than leaving it until just before the next meeting.

However, it can be difficult to keep track of the 'official' version of the minutes when they are created and stored electronically. It is also relatively easy for someone to tamper with the minutes (or replace them with substitute minutes) if they are stored in a loose-leaf binder. For these reasons you should take precautions to make sure the official minutes of meetings are secure, and easily identifiable.

**Tip**

Your organisation can take the following steps to keep the minutes more secure:

- lock the minutes document from editing, add a password to the document, or both
- distribute the minutes electronically in PDF form rather than in an editable form
- print the minutes out and paste them into an official minute book (and number each page of the minute book consecutively)
- get the chairperson to sign each page of the minute book to confirm official minutes, and
- number each meeting sequentially (for example, 'The Minutes of 2022 Annual General Meeting of XYZ Club Inc')

**Remember**

Some types of proposed resolutions require written notice to be given before the meeting – see 'Giving notice of an annual general meeting' in this guide.

Confirming and verifying minutes

It's good practice for the secretary of an incorporated association to:

- make sure the accuracy of the minutes is 'confirmed' at the next meeting, and
- make sure the chairperson of the AGM (or the chairperson of the next meeting) has 'verified' the accuracy of the confirmed minutes, for example by signing them

**Tool 21**

See [Tool 21: Flowchart for confirming and verifying minutes](#).

Check the rules of your own organisation for any special provisions about confirming and verifying minutes.



Part 6

Special General Meetings

Special General Meetings

This part of the guide covers preparing for, conducting and minuting special general meetings (SGMs) of a Victorian incorporated association.

Summary of key points of this part of the guide

What is a special general meeting?

A special general meeting (SGM) is a general meeting that is not an AGM or a disciplinary appeal meeting. Division 4 of Part 5 of the AIR Act sets out laws for SGMs and your rules will also set out procedures.

What is a notice of meeting (and notice of motion)?

A notice of meeting is a written notice to members of the organisation that a meeting is to take place at a specified date, time and place.

A notice of motion is a notice, given by a member of the organisation that proposes some decision or action be discussed and voted on at the next meeting.

What are the legal requirements for notices of special general meetings?

Laws regulate the content of the notice, the time and method of giving it, who the notice is to be given to, and what to do if the SGM (or motion) is adjourned to another time and place. SGMs are referred to in this part of the guide as any general meeting of members that is not an AGM. For information on AGMs see [part 5 of this guide: Annual General Meetings](#).

Notice of a special general meeting

This part of the guide sets out the requirements for notices of SGMs of the organisation's members. A [sample notice and checklist tools](#) are provided in [part 9 of this guide: Tools](#)

Procedures for a special general meeting

At a SGM, matters must be considered by members in a certain way. A sample agenda, with guidance for the secretary, is provided in [part 9 of this guide: Tools](#).

Voting methods

There is a range of ways in which people who are entitled to vote at a meeting can do so. A variety of voting methods are set out in a tool in [part 9 of this guide: Tools](#).

What are 'minutes'?

Minutes are a written record of what was discussed and decided at a meeting, including the results of the vote. One of the key legal tasks of the secretary of an incorporated association is to make sure that accurate minutes are made of the organisation's SGMs, and that these are kept in a safe place.



Preparing and keeping minutes

Both the AIR Act and an organisation's rules set out legal requirements for the minutes of the organisation. Those requirements are discussed in this part of the guide.

This part of the guide sets out what should be included in the minutes and how they should be kept. It also contains tips and tools for drafting minutes, including 'action lists' which summarise people's responsibilities arising from a SGM.

Confirming and verifying minutes

The secretary should ensure at each SGM that the members pass a resolution confirming the minutes of the previous meeting, and the chairperson signs a copy of the confirmed minutes.

This part of the guide explains this procedure, and, in [part 9 of this guide: Tools](#), there is a tool to help you.

What is a special general meeting?

A SGM is a meeting of the members of an incorporated association. A SGM is any general meeting that is not an AGM or a disciplinary appeal meeting.

SGMs are used to address matters that are not dealt with at an AGM, and are normally convened to address one or more particular matters. All voting members of an association must be provided notice of a SGM and can vote on any resolutions of a SGM.

A SGM must be convened in accordance with the AIR Act and the procedures provided in an association's rules.

Model rule 24 provides for an extra kind of meeting of members – a 'disciplinary appeal meeting'. Members who have been subjected to disciplinary action by the committee can call a meeting of members to appeal the committee decision. The process for calling and running these meetings is different to SGMs, and is covered by model rules 23 and 24.

Notice of meeting and notice of motion

What is a notice of meeting?

A 'notice of meeting' is a written notice to the members of an organisation that a meeting is to take place at a specified time.

A notice of meeting should set out information (such as the date, time, place or location, and what is proposed to be done) so that those invited to the meeting know what it's about and can decide whether to attend.

The contents of a notice of meeting may vary significantly from organisation to organisation, depending on the type of organisation and how formal the SGM is. However, there are some matters that must be addressed in a notice of meeting.

In some cases, there are particular notice requirements under the AIR Act before certain resolutions can be passed at a meeting (see below, [Notice of a special general meeting of members](#)).



Caution

In this guide, special general meetings are any general meeting of members that is not an AGM. For information on AGMs see [part 5 of this guide: Annual General Meetings](#).

The AIR Act makes it an offence for an organisation to hold a SGM unless notice has been given to every member eligible to vote at that meeting (section 64(3) of the AIR Act).

What is a notice of motion?

A 'notice of motion' is a notice, given by a member of the organisation, which proposes that a decision or action be discussed and voted on at the next meeting. Commonly the member gives a notice of motion to the secretary, either at the previous meeting (usually at the end) or at a specified time before the next meeting. The motion is then included as an item of business for the next meeting (usually under a heading such as 'motions on notice').

A notice of motion gives the other members an opportunity to consider the member's motion before the meeting takes place and is generally only given if the matter proposed by the member is an important decision for the organisation. A notice of motion may also be required by your organisation's rules or policies. You should check these.



Note

The secretary of an incorporated association is usually responsible for preparing and giving notice of meetings under the organisation's rules.

This is an important job. If a notice of meeting is not correctly prepared and given, the meeting may be invalid and decisions made at it may be void (of no legal effect) See further information below at 'what if a notice of a SGM might be invalid?'

There are special rules for giving notice to remove an auditor. If the SGM will include a motion to remove an auditor, notice of the SGM needs to be sent earlier, to every member, and needs to include extra information. See further information below at 'Notice of proposal to remove an auditor'.

When to give notice of a proposal to remove an auditor

Written notice of a proposal to remove an auditor must be given to members of the association at least two months before the SGM at which the resolution is proposed to be passed (section 106(2) of the AIR Act). There are other steps which must be taken before a meeting proposing to remove an auditor can be held (sections 106 and 107 of the AIR Act):

- a notice proposing a resolution to remove an auditor must state the proposed resolution in full, and
- if an auditor decides to make a written representation, a notice must be given to members of the organisation personally, by post or in any other way that is allowed under the organisation's rules

Who should be given notice?

Notice of a proposal to remove an auditor must be given to every member of the incorporated association (section 106(2) of the AIR Act). In addition, as soon as possible after the notice is given to members, the secretary of the organisation must give a copy of the notice to:

- the auditor, and
- CAV (section 106(4) of the AIR Act). CAV has advised that this can be done in person, by post, or email (attaching the notice as a PDF)

The auditor may write to the secretary of the organisation, within 7 days of receipt of the notice about the proposed resolution.

Giving notice of a special general meeting

What are the legal requirements for giving notice of a SGM?

For SGMs, there are legal requirements about:

- when the notice must be given (see below: [When to give notice of a special general meeting](#))
- the content of the notice
- how notice must be given
- who the notice must be given to, and
- what to do if the meeting is adjourned



Terminology

The words '**service**' and '**servicing**' are used to describe the legal requirements for giving notice of a meeting.

'Service' simply means the process of giving a notice to someone who is invited to a meeting. For example, your rules may state that a notice must be 'served on' (given to) a person by post, email or in person.

You need to consider any requirements imposed by:

- the AIR Act
- the Regulations
- your organisation's rules, and
- any policies your organisation has about this issue



Remember

Make sure you have the most up-to-date version of your rules, including any changes that the organisation's members and CAV have approved.

If you are confused about which rules apply to you and whether the copy you have is up-to-date, the best thing to do is to contact CAV and request a copy of your organisation's rules and purposes.



Tool 22

The checklist in [Tool 22: Checklist for notice of SGM](#), will help you to prepare a notice for a SGM.



Note

There are special requirements under the AIR Act for giving notice of particular types of SGMs. These are:

- a meeting proposing a special resolution, and
- a meeting proposing to remove an auditor

The requirements for these are discussed below.

When to give notice of a special general meeting

The rules of an incorporated association must set out the notice period, being the number of days' notice an organisation must provide its members of for an upcoming SGM. Many organisations have a rule (similar to model rule 33) that members should receive notice of a SGM at least 14 days before the meeting date (or 21 days if a special resolution is proposed – see more information below) before the meeting.

Also, many organisations have rules (similar to the model rules 31) that:

- the committee may decide the specific date, time and place or location to hold a SGM, and
- the committee must call a SGM where a certain percentage of members (eg. 10%) have requested that a meeting be held (model rule 32)

Your organisation may have also supplemented its rules with policies about the time for giving notice of a SGM. You should check whether any such policies exist and if so, whether they specify extra requirements.



Caution

Check your rules to see what they say — your organisation may have adopted the model rules or it may have changed the model rules to suit its own particular circumstances.

How to measure time for giving notice

Calculating the number of days' notice can be confusing. First, check whether your organisation has its own rules about measuring time. The model rules do not have any provisions about measuring time.

If your rules don't address measuring time, it's good practice when counting days to exclude both:

- the day on which the notice is given, which is the date on which the relevant person will receive the notice, and
- the day on which the meeting is to be held



Example

Most organisations have a rule that a notice of general meeting should be sent to members at least 14 days before the meeting is held.

If a notice is personally delivered to a member on 1 January, you would count 14 days from 2 January. That makes 16 January the earliest date for holding the meeting.

If the notice is sent to members by post, the commonly accepted rule is that the notice period begins the day after the letter would have been delivered 'in the ordinary course of post'.



Due to changes to Australia Post's delivery times for ordinary mail, it now takes two to four business days for a letter to reach an address in the state in which it was posted (including metropolitan areas), and three to six business days for interstate addresses.



Tip

When calculating the number of days' notice that needs to be given, to be safe, you should allow at least six extra business days if the notice is sent by ordinary post.

What information should be in a notice of a special general meeting?

A notice of a SGM should:

- be sufficiently clear and detailed so that any ordinary person who receives the notice and scans it quickly can know what is proposed to be done at the meeting and can then decide whether to attend
- be a full and fair disclosure of the matters to be discussed at the meeting, and
- not mislead any member of the organisation

These legal requirements have been developed by the courts to help establish good and fair procedures. To meet these requirements, it is desirable that an organisation's rules specify what details must be included in a notice of SGM, but as a minimum the notice must include the date, time and place of the SGM and if the rules require voting by proxy then the standard form proxy form must be given with the notice (section 60 of the AIR Act).



Tool 23

For an example of a notice of special general meeting (under the model rules, this is any general meeting which is not an annual general meeting) see [Tool 23: Sample notice for SGM](#).



Remember

If your organisation uses the model rules, or has a rule similar to model rule 31(3), the only matters that can be discussed and voted on at a SGM are the ones set out in the notice of meeting. This means that the secretary must be very careful to include in the notice of SGM all items of business to be dealt with. Extra things can't be addressed at the meeting.

Remember to check your organisation's own rules and procedures, as they may have different requirements.



Tip

Commonly, agendas for SGMs include a catch-all item such as 'any other business' or 'general business'. This allows members to discuss any additional matters which arise at the meeting (such as setting a time and place for the next meeting).

However, the SGM should not pass resolutions on important matters which have not been previously notified to members. If additional matters of business are attempted to be raised at the meeting, it is best for the organisation to convene a further meeting (with sufficient notice to members) to consider the issues properly, and vote on any resolutions.

Your organisation may also have policies about the content of notices of SGMs. For example, it may be your organisation's policy to specify who authorised the notice.

The notice is usually sent together with documents which provide background information on the matters to be discussed at the meeting, such as:

- the minutes of the last meeting
- reports prepared by the management committee, staff or volunteers, and
- financial reports



Tools 22 and 23

See [Tool 22: Checklist for notice of SGM](#) and [Tool 23: Sample notice for SGM](#).

How to give notice of a special general meeting

The rules of an incorporated association must set out the way in which notices of SGMs (and notices of motion) are to be given, published or circulated (item 19 of Schedule 1 of the AIR Act).

Many organisations have a rule that a notice of a SGM may be:

- provided in person
- sent by post to each member's address, or
- sent by fax, email or other form of electronic transmission

Check your own organisation's rules. The way in which notice must be given varies greatly, depending on the type of organisation and the formality of meetings. Some organisations' rules require a notice to be posted to each paid-up member; others require notice by an advertisement in a local newspaper; others may place a notice in their regular newsletter or on a club notice board.

Extra requirements apply if there will be a motion put at your SGM that requires a special resolution to pass (see further discussion below).

Your organisation may also have supplemented its rules with policies about how to give notice of a SGM.



Tip

When giving notice of a SGM, it's good practice to give each member of the association an individual notice (rather than, for example, only putting up a notice on the club notice board). This prevents a claim by a member that they were unaware of a SGM.

With large organisations this may be expensive. Therefore, some organisations' rules may allow for other methods of providing notice to members (for example, by email).

Who should be given notice of a special general meeting?

Unless your organisation's rules say otherwise, you should give notice of a SGM to all members listed on the organisation's register of members. (The secretary usually has responsibility for maintaining the register of members – see [part 4 of this guide: Registers, Records and Official Documents](#)).

The AIR Act requires that notice be given to 'each member of the association entitled to vote at general meetings' (section 60 of the AIR Act). This is the minimum requirement. Some organisations may specify in their rules that only paid-up (financial) members or some other special membership class are required to receive notice of a SGM. Your organisation may also have 'life members', who may (or may not) need to be notified. Check your organisation's rules and policies about who should be given notice of a SGM.

What if a special general meeting (or a motion) is adjourned to a later date?

Sometimes, a SGM may be adjourned to a later date – for example, if there are not enough members at the meeting to make decisions for the organisation (see '[How many people need to be at a special general meeting?](#)' below).

And sometimes, even though the meeting goes ahead, a motion – of which notice has been given – may need to be adjourned to a future SGM.

In such cases, you will need to consider whether a new notice of SGM (or notice of motion) is required. For example, model rule 37(4) states that if a meeting is adjourned for 14 days or more, notice of the adjournment of a meeting must be served. Check your organisation's rules for any specific provisions about this.

Notice of SGM where motion requiring special resolution will be put to members – extra requirements

There are extra notice requirements if particular types of decisions are proposed to be made at a SGM. One of these situations is where a motion requiring a 'special resolution' will be put to members.



Why have extra requirements for special resolutions?

The policy reason for having extra requirements for a notice of a meeting proposing a special resolution is that special resolutions are used to make important decisions under the AIR Act. It's important to give members more time and information about the matter so that they can consider it carefully before the meeting.

Notice of a proposed special resolution

Special resolutions are required under the AIR Act for an organisation to make certain decisions (such as changing the organisation's name, rules, removing a committee member from office or winding up the organisation).

See '[Procedures for a special general meeting](#)' below for information about passing a special resolution at a SGM (and then seeking approval from CAV, where applicable).

When to give notice of a proposed special resolution

A notice of a meeting that will include a motion requiring a special resolution to pass must be given to all members who are entitled to vote at least 21 days before the meeting (section 64(2) of the AIR Act).

Otherwise, the resolution cannot be passed as a special resolution at the meeting.

What information should be included in the notice?

To pass a special resolution at a SGM, the AIR Act (section 64(3) of the AIR Act) requires the notice to:

- specify the date, time and place of the SGM
- set out the actual wording of the proposed special resolution in full, and
- state that it is intended to propose the resolution as a 'special resolution'

Check your organisation's rules carefully for any extra requirements about notices of proposed special resolutions.



Tool 22

For an example of a notice with a proposed special resolution, see [Tool 22: Sample notice for special general meeting](#).

How should notice be given?

See discussion above, '[How to give notice of a special general meeting](#)'.

Who should be given notice?

The AIR Act requires a notice of at least 21 days of a SGM proposing a special resolution to be given to all members of the organisation who are entitled under the organisation's rules to vote on the resolution (section 64(2) of the AIR Act). Check whether your organisation has particular classes of members who are, or are not, eligible to vote on the matter.

Notice of proposal to amalgamate the association with another organisation

If the motion requiring special resolution is proposing to amalgamate (or, 'join') an organisation with other organisations (one or more), the notice should:

- nominate the first secretary of the amalgamated organisation
- include the terms of the amalgamation, and
- attach a copy of the proposed rules of the amalgamated organisation

An application to amalgamate can only be approved by CAV (sections 17 and 18 of the AIR Act) if the application includes the relevant details about the amalgamated organisation (name, first secretary's details) and is accompanied by evidence of the passing of the special resolution approving the proposed terms of the amalgamation as well as the rules of the amalgamated organisation.



Caution

If a special resolution is proposed for a SGM, your organisation must comply with the notice requirements in sections 64(2) and 64(3) of the AIR Act. Otherwise, the resolution can't be passed as a special resolution at the SGM.

Check whether your organisation has particular classes of members who are, or are not, eligible to vote on the matter.

Notice of proposal to remove an auditor

There are special rules for giving notice to remove an auditor. If your SGM will include a motion to remove an auditor, notice of the SGM needs to be sent earlier, to every member, and needs to include extra information.

When to give notice of a proposal to remove an auditor

Written notice of a proposal to remove an auditor must be given to members of the association at least two months before the SGM at which the resolution is proposed to be passed (section 106(2) of the AIR Act). This means that the SGM notice will need to be prepared earlier than usual.

Other steps must be taken before a meeting proposing to remove an auditor can be held (sections 106 and 107 of the AIR Act):

- a notice proposing a resolution to remove an auditor must state the proposed resolution in full, and
- if an auditor decides to make a written representation, a notice must be given to members of the organisation personally, by post or in any other way that is allowed under the organisation's rules



Why have a longer notice period?

This long notice period is designed to make sure that the organisation's members, the auditor and CAV have time to consider the proposal, and the auditor has time to prepare any response before the SGM at which the decision is to be made.

Who should be given notice?

Written notice of a proposal to remove an auditor must be given to every member of the incorporated association (section 106(2) of the AIR Act). In addition, as soon as possible after the notice is given to members, the secretary of the organisation must give a copy of the notice to:

- the auditor, and
- CAV (section 106(4) of the AIR Act). CAV has advised that this can be done in person, by post, or email (attaching the notice as a PDF)

The auditor may write to the secretary of the organisation within seven days of receipt of the notice about the proposed resolution (section 107(1) of the AIR Act). Unless CAV orders otherwise:

- the secretary of the organisation must provide a copy of the auditor's letter to all members of the organisation before the SGM, and
- the auditor must be allowed to attend and talk to the meeting before a vote on the resolution is taken (section 107(2) of the AIR Act)

What if a notice of a special general meeting might be invalid (defective)?

If there is a defect with a notice of SGM (for example, it didn't contain the details required by the AIR Act or was sent without providing sufficient notice), the notice may be 'invalid'. If this happens, any actions taken and decisions made at the subsequent meeting may be void (that is, of no legal effect).

If a member of your organisation alleges that a notice of a SGM is invalid, it can be difficult to work out whether the alleged defect is something that would make the meeting void. The answer will depend on the seriousness of the alleged defect.



Caution

If there is ever any concern about the validity of any notice, you should seek legal advice.

Is it possible to waive any defects in a notice?

If you have realised that your notice of SGM was defective, there are steps you can take to fix the defect. If all the members entitled to attend the SGM (not just those who actually attend) agree to 'waive' a defect in the notice (that is, essentially to ignore it), the invalidity may be overcome. The courts have long recognised this as a way of 'curing' defects in a notice. However, waiving a defect can prove difficult for a SGM that is large or more formal.

A defective notice of a SGM that includes a proposed special resolution is unlikely to be cured by a waiver. If 21 clear days' notice has not been given, you should seek legal advice. You may need to hold the meeting again or confirm the resolution at a future special general meeting (see below).

Is it possible to overcome alleged defects in any other way?

One method of overcoming any alleged defects in a notice is to continue to hold the (possibly) invalid SGM (if those present agree) and to keep records of the decisions made at the meeting. At the next validly convened general meeting, a motion can be put adopting the decisions made at that earlier (possibly) invalid SGM.

Of course, until that subsequent meeting validates the decisions of the previous (invalid) SGM, the decisions of that previous meeting will have no legal standing or effect. This approach is therefore usually taken only if there is likely to be no dispute about the previous decisions.

Procedures for a special general meeting

Procedures for SGMs of incorporated associations in Victoria can vary considerably, depending on the type of organisation, who is attending and what is being discussed. A SGM of a large organisation is usually very formal.

Generally, the larger the group, the more formal the SGM procedures (so that order is maintained and the meeting can deal with its business efficiently).

The person who chairs the SGM (usually called the chairperson or president) guides the style. As long as the legal requirements are met, the chairperson may run the SGM in as relaxed or formal a style as the particular situation allows.

You need to take into account any requirements imposed by the AIR Act, the Regulations and your organisation's rules when establishing meeting procedures,

Each organisation also develops its own customs, practices and 'culture' over time. These may not be formally reflected in the Rules of the organisation. So it's important to ask about your organisation's policies and procedures (written and unwritten), as well as the rules, to find out how your organisation usually conducts meetings.



Tip

Some customs and practices are intentionally designed to promote efficiency of time and effort, to focus on certain key meeting issues, or for other strategic purposes.

For example, an organisation may table certain reports and take them as read (that is, the SGM does not deal in detail with the report, but members may ask questions).

What is the role of the secretary at special general meetings?

The role of the secretary is discussed in detail in [part 3 of this guide: Secretary's Legal Role, Powers and Duties](#).

For SGMs, the secretary is usually responsible for the following tasks:

- preparing and distributing any reports or documents to people who are invited to the meeting dealing with any correspondence
- assisting in and recording the outcome of any votes taken, and
- taking minutes of the meeting (or arranging for someone else to take them)

Rules and special general meetings

Check your organisation's rules for the requirements (if any) about SGMs including:

- the agenda for the meeting
- the 'quorum' for the meeting (that is, the minimum number of members who must be present)
- how resolutions are passed
- voting methods, and
- how meetings can be adjourned

Each of these matters is discussed in more detail below.

Agenda for a special general meeting

The agenda for any general meeting including a SGM, should include all business to be considered at the meeting (this should be included in the notice of meeting – see 'What information should be in the notice of special general meeting?' in this guide).

Some items of business are usually listed on the meeting agenda and dealt with at every general meeting, such as:

- attendance and apologies, and
- confirming the minutes of the last meeting

As the meeting will usually be convened to consider and decide a particular matter, the agenda should clearly set out the issues to be determined.

How many people need to be at a special general meeting?

Before you can deal with any business at a SGM, there must be a minimum number of the organisation's members present. This number is called the 'quorum'.

Your organisation's rules must specify the quorum for SGMs and other general meetings (item 18 of Schedule 1 of the AIR Act). Model rule 36 says that the quorum is 10% of members entitled to vote present

physically or by proxy. Check your own organisation's rules for the quorum number and whether they may be present by proxy.

What happens if there is no quorum?

If there is no quorum at a SGM, your organisation's rules should set out what will happen. For example, model rule 36 provides that:

- no item of business may be conducted at the meeting unless a quorum of members entitled to vote is present when the meeting is considering that item, or
- if, within half an hour after the time set for the start of the meeting, a quorum is not present, then either:
 - if the meeting has been convened at the request of members — the chairperson must cancel the meeting, or
 - in any other case — the chairperson must adjourn (reschedule) the meeting, but no more than 21 days after the adjournment

Model rule 36 also says that if a quorum is not present by the end of the first half hour of the rescheduled meeting, then, if there are at least three members present, those members may proceed as if a quorum were present. This means that the rescheduled SGM will be able to deal with the items of business, so long as at least three members are personally present. Remember the AIR Act allows attendance at meeting via technology (such as phone conferencing or video conferencing).

You should check your organisation's own rules.

Motions and resolutions

The words 'motion' and 'resolution' are often (incorrectly) used as if they mean the same thing. They don't – they have separate, but related, meanings.



What is a motion?

A motion is a proposal that a member puts at a meeting in order that some action be done or decision made about an issue (see discussion of a 'notice of motion' above in this part of the guide).

The technical procedure is that:

- a member moves the motion, and
- another member seconds that motion

If members want to change the wording of the motion:

- a member moves an amendment to the motion, and
- another member seconds that amendment



Example

The XYZ Club calls a general meeting at which a motion is put forward by a member 'that this meeting approve the lodgement of a zoning application for the association's Club House with the Melbourne City Council'. Another member seconds the motion.

Then the meeting can vote to approve or pass the motion (or not).



What is a resolution?

A resolution is a motion that the meeting has approved or passed. A resolution is therefore the result of a motion (or an amended motion) put before, and approved by, the meeting. Once the resolution is passed, the meeting has made a binding decision.

There are two main types of resolutions:

- ordinary resolutions (often simply called a 'resolution') (50% threshold), and
- special resolutions (75% threshold)

The requirements for passing ordinary and special resolutions are different, and are discussed in more detail below. For information about drafting motions and resolutions, see '[Preparing and keeping minutes](#)' below.



Example

The XYZ Club meeting votes to approve the motion 'that this meeting approve the lodgement of a zoning application for the association's Club House with the Melbourne City Council'. The motion then becomes a resolution that legally binds the XYZ Club and its members.

But, if necessary, the organisation can change or cancel its decision by passing another resolution to override the previous one.

How is an ordinary resolution passed?

Unless your rules say otherwise, an ordinary resolution is passed by a 'simple majority' of members who vote at a SGM. A simple majority is when more than half of the members present and voting at the meeting, vote 'in favour of' (for) the resolution.

For example, if there were 20 members voting on a motion, you would need 11 (or more) members voting in favour to pass an ordinary resolution.

Check your organisation's rules for any particular requirements for passing resolutions (either ordinary or otherwise).



Example

For example, your rules may require a majority of all members entitled to vote (rather than a majority of members who actually vote) to pass a resolution.

This means that – if you have 50 members, and 30 turn up to your meeting, you will still need 26 votes (that is, more than half the 25 members eligible to vote) to pass a resolution. This is sometimes known as a resolution by 'absolute majority'.

How is a special resolution passed?

A special resolution must be passed in accordance with the requirements in section 64 of the AIR Act. As discussed above, special resolutions are required under the AIR Act for certain important decisions, such as changing the organisation's name or rules. Your organisation's rules may specify other situations, or types of decisions, which require a special resolution.

To pass a special resolution at a SGM, the AIR Act requires:

- not less than 21 days' notice of the special resolution be given to members (section 64(2) of the AIR Act), and the notice must contain the complete wording of the proposed resolution (see 'Notice of a proposed special resolution' above)
- not less than three quarters (75% or more) of members who are both:
 - entitled to vote, and
 - who actually do vote at the meeting, either in person, or by proxy if allowed (see below, '[Proxy voting](#)')
 vote 'in favour of' (for) the special resolution (section 64(4)(a)(i) of the AIR Act), and
- any additional requirements in the organisation's rules about passing special resolutions be met (section 64(4)(a)(ii) of the AIR Act).

Your organisation's rules can impose additional requirements (for example, a requirement to include certain extra information about the proposed special resolution in the notice of meeting), but can't reduce or increase the 75% provision.

If it would be too difficult (impracticable) for your organisation to pass a special resolution in the way required by section 64(4)(a) of the AIR Act, you can ask CAV for approval to pass a special resolution in another way (section 66 of the AIR Act). CAV has advised that an organisation may get approval if, for example, it needs to pass a motion to wind up (end) the organisation but there is a problem with the organisation's records and it is difficult to identify all the members of the organisation.

**Remember**

Some decisions passed by special resolution (for example, changing the organisation's rules) are not official under the AIR Act until they have been approved by CAV. Depending on the type of decision, you may need to notify CAV of the special resolution and seek approval for the change.

Proposal to remove an auditor – extra requirements

There are special requirements if a resolution to remove an auditor is proposed to be passed at a SGM (section 106 of the AIR Act and see 'Notice of proposal to remove an auditor' above). One of these requirements (section 107(2)(b) of the AIR Act) is that, unless CAV orders otherwise, the auditor must be allowed to:

- attend the SGM at which resolution to remove them is to be considered, and
- talk to the meeting before the vote on the proposed resolution is taken

Voting at special general meetings

If members at a SGM want to make a decision about a matter, a motion or an amendment, it's usual for each member to cast a vote — generally 'in favour' (for) or 'against.'

Check your organisation's rules for any requirements about voting procedures. Model rule 38 provides that:

- each member has only one vote
- all votes must be given personally or by proxy (see below, '[Proxy voting](#)'), and
- if there is a tied vote (that is, an equal number of votes 'for' and 'against'), the chairperson may vote again to decide the matter (sometimes called the 'casting vote')

For information about voting methods see below, '[Voting methods](#)'.

Adjourning special general meetings

Check your organisation's rules for any provisions about adjourning (rescheduling) SGMs.

As discussed above, the rules of an incorporated association will usually require the chairperson to adjourn a SGM if there is no quorum present after a specified time. For example, model rule 37 also provides that:

- if a majority of the members present consent, the chairperson may adjourn the meeting to another time and place
- at the rescheduled meeting, the only business that may be dealt with is the unfinished business from the meeting that was adjourned, and
- if a meeting is adjourned for 14 days or more, then a notice of the rescheduled meeting must be given in accordance with the rules for notices of general meetings

Some organisations' rules allow for a SGM to be adjourned in other circumstances as well. You need to check what your rules say.

Voting methods

There are various ways in which votes can be taken at a SGM. The most common methods are voting by show of hands or by count (that is, a vote in writing).



Tool 24

Voting by show of hands, by count and by other methods (such as voting by voices) are discussed in more detail in [Tool 24: Table of voting methods](#).

Check your own organisation's rules and policies about voting methods. Your rules may require certain methods and not allow others. They may also require different methods of voting at different types of meetings.

How to vote on a special resolution

Voting on a special resolution should be conducted as required or permitted by your organisation's rules.

The AIR Act says that a special resolution is passed if the chairperson declares it has been passed, unless a member of the organisation demands that the votes be counted (section 65(3) of the AIR Act) (See below about counts).



Tip

The usual procedure for voting at a SGM is that the chairperson will:

- clearly state the motion to be put to the meeting
- take a vote from those present and entitled to vote
- determine the result, and
- announce the result of the vote

Counts and ballots

A 'count' is a method of voting in writing on a motion (and any amendments) at a meeting. It's usually the role of the chairperson to determine whether a count is required, to direct the conduct of the count and to supervise the counting of the written votes. The way in which individual members voted in the count is not usually disclosed.

In many organisations the rules allow a member to demand a count. Commonly, a count may be demanded by:

- a member who questions the result of a particular vote count (for example, if the SGM is large and there is a close vote on a show of hands), or
- a member who believes that any proxies held may alter the outcome of the vote (because a holder of several proxies has only one vote in a show of hands)

Sometimes a count must be conducted, if a certain number of members request it. For example, model rule 40(2) requires a count if three or more members demand one on a question.

A 'ballot' is a method of voting for elections of office bearers and management committee members. A ballot is usually confidential, in which case it is referred to a 'secret ballot'. In a secret ballot, the name of the voter is not disclosed, compared to a count where the voter's name is usually written on the voting paper so the voter's right to vote can be checked (for example, that they are a paid up member).

Contested elections at a SGM (that is, if there is more than one person nominated for a position) are often conducted by secret ballot.

For more information about how to conduct a count and ballot, see [Tool 24: Table of voting methods](#).

Abstaining from voting and opposing

Some members may decide not to vote at all (that is, 'abstain from voting') and they may wish to have the secretary record their names in the minutes as having abstained.

Other members may oppose the motion and request that their opposition be noted.

What if a vote is tied?

If a vote is tied, most organisations' rules say that the chairperson has a second (or 'casting') vote to decide the matter. Commonly, the chairperson will exercise this vote to maintain the existing situation (so that a controversial resolution will not be passed).

What if a member is unable to attend a special general meeting and vote in person?

If a member of an organisation is unable to attend a SGM to cast their vote in person, that member may, depending on the rules of their organisation, vote by 'proxy'. See '[Proxy voting](#)' below.

As an alternative, an organisation may allow direct voting so that members who will be absent from a SGM can cast their own vote. The vote can be cast by completing and lodging a voting form prior to that meeting. More information about direct voting, including how an organisation can amend its rules to implement a system of direct voting is provided below.

Proxy voting



What is proxy voting?

If a member of an organisation is unable to attend a SGM and vote on an issue personally, that member may be able to appoint another person to cast a vote on their behalf (that is, 'vote by proxy') at the meeting.



Terminology

When talking about proxies, it's important to know the following definitions:

- the 'donor' is the member of the organisation who appoints another person to vote on their behalf
- the 'proxy holder' or 'proxy' is the person who is appointed to vote on behalf of the absent member, and
- the 'proxy form' is the document by which the donor appoints the proxy

What are the legal requirements for proxy voting?

A member of an incorporated association has no general legal right to appoint a proxy (but see below, '[powers of attorney](#)'). The power or right to appoint a proxy can be given only by the organisation's rules, so you should check if your rules allow for proxy voting.

The AIR Act requires the rules of an incorporated association to specify whether absent members are allowed to vote by proxy (item 18 of Schedule 1 of the AIR Act). Check your organisation's rules carefully for any provisions about proxy voting.

The rules of some organisations specify a deadline for receiving proxy forms before the SGM. The model rules do not contain a time limit for proxy forms provided in person, however model rule 34(7) requires that forms sent by post or electronically be received 24 hours before the meeting to have effect. Having a deadline in your rules avoids the secretary having to receive many proxy forms at the meeting, which can slow the progress of the meeting.

The rules of some organisations may also allow:

- non-members to act as proxies
- a general proxy (which gives a member the right to appoint another to vote as they see fit on all aspects of the organisation's business for a certain period of time)
- a specific proxy (which allows a person to cast a vote only at a particular meeting in a particular way), or
- the chairperson to hold the general proxies of many absent members (and therefore enable the chairperson to exercise the proxy in any manner they see fit)



Tool 16

See [Tool 16: Flowchart for reviewing proxies](#) in this guide. Be sure to check the flowchart against your organisation's rules and policies before relying on it. If your rules are different, adapt the tool to suit your own circumstances.

What if the donor attends the annual general meeting themselves?

If the donor attends a SGM for which they have appointed a proxy then, if the donor votes on an issue, the proxy holder may not vote on their behalf. The proxy holder may continue to act in accordance with the proxy form to vote on subsequent matters (so long as the donor does not vote).

Is the chairperson required to exercise the proxies they may hold?

If the chairperson has been appointed a proxy holder by a number of absent members, there is no broadly applicable rule about whether the chairperson must vote on behalf of these donors. It will depend on the wording of the document that appoints them as proxy.

It's good practice for the proxy form to set out whether the chairperson must vote in a particular way or whether the chairperson may (or may not) vote in a particular way on the resolution. If the chairperson may vote but does not have to, this means they have a 'discretion' about exercising the proxy. If a donor

appoints the chairperson as their proxy to vote on a resolution in a particular way, the chairperson must vote in that way.

cancelling a proxy

Generally, a donor may cancel (or 'revoke') a proxy before it is exercised by:

- giving both the proxy holder and the organisation a written notice of revocation (which becomes effective as soon as it is received and which, strictly, must be received by the organisation before the SGM at which the proxy was to be used)
- granting a subsequent and superseding (overriding) proxy to the same or another person, or
- resigning from the organisation

If a donor dies, the proxy automatically ends.

Check your organisation's rules carefully for any provisions about revoking proxies. For example, some organisations' rules require a donor wishing to cancel a proxy to give notice to the organisation by a certain deadline before the meeting.

If the donor has appointed a proxy for a specific SGM (see discussion of 'specific proxies' above), the appointment will only be valid for that meeting.

Powers of attorney



What is a 'power of attorney'?

A person can appoint another person (or more than one) to have 'power of attorney' for them — that is, to make decisions on their behalf, either indefinitely or for a specified period of time. This must be done in writing, signed and dated. This is another way to enable a person to vote on behalf of a member who is not attending a SGM.



For more detailed information on powers of attorney, and sample forms, see [the Office of the Public Advocate website](#).



Terminology

When talking about powers of attorney, note:

- the 'donor' is the person who appoints another person to make decisions on their behalf
- the 'attorney' is the person who is appointed by the donor, and
- the 'power of attorney' is both the document by which the attorney is appointed, and the actual grant of power

The attorney may exercise the powers of the donor, and vote on their behalf at a SGM.

A donor may cancel (revoke) a power of attorney at any time in writing.

If a person says they have power of attorney to act on behalf of a member of your organisation, it's good practice to:

- ask that person for a written declaration that they have the powers they claim, and
- request to see, and then carefully read, the original copy of the power of attorney to:

- confirm that the power exists
- make a note of the extent of the power granted to the attorney, and
- make a note of the period of time (if any is specified) that the power operates

The attorney may sometimes appoint a proxy or be a proxy holder. Sometimes a power of attorney gives a person the power to act on the donor's behalf on all matters (this is a 'general' power of attorney). In this situation, the attorney would have the authority to appoint a proxy, or to be a proxy holder.

Direct voting



What is 'direct voting'?

Direct voting is a method of voting which enables members to exercise their voting rights without having to either attend the SGM, or give their right to vote to someone else (ie. a proxy or attorney).

With direct voting, members exercise their vote by submitting a binding voting form to the organisation before the SGM, in an approved manner.

Why is direct voting beneficial?

Direct voting makes it easier for a member to vote (and have their vote counted) when they cannot attend a SGM. In contrast to proxy voting (whereby a person gives the proxy their power to vote at a SGM – but does not necessarily oblige that person to attend the meeting and vote on their behalf), with direct voting an absent member can simply lodge their vote in writing before the SGM. Direct voting can therefore foster greater member participation in decision-making – and also avoids a situation where, for example, a proxy holder falls ill on the day of a SGM and can't attend.

Direct voting does not necessarily replace the proxy system. It can sit alongside it. Direct voting simply provides an additional voting option to members who know they can't attend a SGM.

Implementing direct voting

Direct voting is not available to members unless your organisation's rules provide for it.

If your organisation's rules do not currently allow for direct voting, and you would like to adopt a direct voting system, you will need to change the rules to implement direct voting. You will need to consider how you want the procedure to work. For example, do you want your rules to outline the form and process for direct voting, or leave it to the committee of management to determine this form and process in the future as it sees fit?



Remember

Check the voting provisions in your organisation's rules. If your organisation uses rules that do not allow for direct voting (such as the model rules), you will need to change your organisation's rules to implement direct voting procedures.



Tool 17

For sample wording of a new rule to allow direct voting, see [Tool 17: Sample wording for allowing direct voting in your rules](#).



Remember

In order to change your rules, a special resolution must be passed in accordance with the requirements of section 64 of the AIR Act and CAV must approve any changes before they take effect. See above for more information on the specific requirements for passing a special resolution.

Minutes



What are 'minutes'?

The word 'minutes' has been used for centuries to mean a summary of the proceedings of an assembly or committee.

Today, minutes are a formal written record of the matters discussed and decisions made at a meeting.

One of the main legal tasks of the secretary of an incorporated association is to make sure that:

- minutes are taken of each meeting (including the SGM) of the organisation
- minutes are confirmed by the organisation as an accurate record of the meeting, and
- the minutes of all meetings are kept safely by the organisation for future reference

The legal requirements for preparing and keeping minutes of SGMs come from the AIR Act and the organisation's rules.

Your organisation may also have particular policies and practices for taking and keeping minutes.

There are other laws which you should be aware of when preparing and distributing minutes, including defamation and privacy laws. These are discussed briefly in this part of the guide.

AIR Act requirements

The AIR Act requires the rules of incorporated associations in Victoria to include provisions about keeping accurate minutes of SGMs and allowing members access to such minutes of the organisation (items 14 and 15 of Schedule 1). If your organisation's rules do not cover any of the matters in Schedule 1 of the AIR Act, the provisions of the model rules that address those matters will apply to your organisation automatically.



Note

The AIR Act requires an organisation's rules to cover all the matters listed in Schedule 1, either by adopting the model rules, or having a provision in their own rules that covers the same point but is different to the model rules.

In addition, an inspector from CAV may, with a Magistrates' Court order, require the organisation, or any person who is involved in the organisation's activities (which includes the secretary to give the inspector specified relevant documents of the organisation (sections 158 and 159 of the AIR Act). CAV may choose to use these powers to make sure that the organisation has complied with the AIR Act and the Regulations.

It is therefore extremely important that the secretary makes sure that accurate minutes are taken of the organisation's SGMs, and that they are kept in a safe place.

Your organisation's rules

Many organisations have a rule, similar to model rule 41, which require the secretary to keep minutes of resolutions and proceedings of each SGM.

Model rule 41 also requires a secretary to keep as part of SGM minutes:

- the names of members attending the meeting, and
- proxy forms given to the chairperson

Check your organisation's rules.

SGM minutes are 'relevant documents' of an association, and members can inspect and make copies of the minutes. See [part 3 of this guide: Secretary's Legal Role, Powers and Duties](#) for more information about a secretary's responsibility to store and provide access to minutes.

Your organisation's policies

Check your organisation's policies and practices about taking and keeping minutes. If you don't have any, your organisation may choose to create policies, using this guide for assistance.

Preparing and keeping minutes

The form of minutes varies depending on the type of organisation and the type of activities it undertakes.

Content of the minutes



Tool 19

For detailed information about the usual matters to include in the minutes of meetings, see [Tool 19: Checklist for contents of minutes](#).

Importantly, the minutes should record the motions moved and resolutions made at the SGM.

Drafting the content – generally

The format and style of minutes vary considerably among organisations. Some minutes are very brief and precise, and record the bare minimum of information. Other minutes include 'blow by blow' summaries of the debate (which is unnecessary and we recommend avoiding).

It's only necessary to include a transcript of everything that was said at an AGM in the minutes in exceptional circumstances. Check your organisation's rules, policies and practices.



Tool 20

Despite variety in the form of minutes, there are some commonly accepted drafting conventions – see [Tool 20: Conventions for drafting minutes](#).



Tip

The minutes are an official historical record of the organisation, so it's good practice to record in the minutes the name and position of office bearers (chairperson, secretary, treasurer) as well as names of members and any other people present (such as observers).



Drafting motions and resolutions

The exact wording of the motion should appear in the minutes. If there is a problem with the wording of a resolution (that is, a motion which is passed at the SGM), this will have to be corrected at a later meeting. Once the minutes have been confirmed, the secretary has no power to alter the motion in order to correct the mistake.



Tip

If a motion is proposed verbally at a meeting, the secretary may find it helpful to:

- write the motion down on a board or flip chart and show it to the meeting during the debate, or
- require the motion to be given to them in writing by the member proposing it

This way, any corrections to the wording of the motion can be made before voting on the matter. It also gives the secretary a chance to draft the motion in a way which can be suitably recorded in the minutes.

The wording of the motion must comply with your organisation's rules, including its purposes — it can't recommend any action outside the scope of your organisation's powers and activities. The motion must also be allowed to be made by the SGM, especially if the meeting has been called for a specific purpose.



Tip

It's useful for the secretary to circulate draft minutes with an 'action list' to the people or sub-committees who have been given specific tasks at the SGM.

For each motion, the minutes should record:

- the names of people who move and second the original motion and any amendments
- the method of voting (for information about voting methods, see '[Voting methods](#)' in this guide), and
- whether the motion was passed (in which case it becomes a resolution), rejected or was adjourned (that is, put off until another meeting)

See [Tool 20: conventions for drafting minutes](#).

Drafting minutes of difficult meetings

Sometimes SGMs get heated and the participants resort to personal attacks, walk-outs, threats and inappropriate remarks. In many instances, the chairperson may require such remarks to be withdrawn (therefore the remarks are not recorded). In other cases, it is sufficient to record that 'a vigorous discussion ensued' rather than a blow-by-blow account in the minutes (which is unnecessary and we recommend avoiding). See [Tool 20: conventions for drafting minutes](#).



Tip

For difficult meetings, the secretary could consider:

- asking the chairperson for specific help to draft the minutes (in any case, it's good practice for the secretary to always check the minutes they have drafted with the chairperson before distributing them to others), and
- unless a motion was made or resolution passed, not including the controversial material altogether. The minutes will have to be approved at the next meeting and, if it's considered necessary to include more detail, it can be agreed then

Defamation

Sometimes a secretary will have to deal with potentially defamatory matters in the minutes of SGMs. A chairperson should challenge any defamatory statements at the time they are made in a SGM and have them withdrawn. The statements will then not be recorded in the minutes.

If an organisation has published defamatory statements in the minutes of a SGM, the defence of 'qualified privilege' may be available, however the organisation should seek specific legal advice. In most cases, potentially defamatory statements do not need to be included in the minutes.

Generally a 'defamatory statement' about a person is one that:

- exposes the person to hatred, contempt or ridicule
- tends to lower them in the opinion of other people
- harms their reputation (for example in their profession), or
- causes them to be shunned or avoided by others



Remember

The law of defamation is complex. If a secretary is concerned about any potential defamatory matters when drafting minutes, they should seek legal advice before finalising and distributing the minutes to anyone.

Storing minutes

Minute books

Finalised minutes are often entered into a 'minute book'. Minute books were originally a securely bound book with sequentially numbered pages. The minutes were handwritten into the book to guard against fraud or tampering. While some small organisations still use handwritten minute books, many organisations create and store minutes electronically and distribute them by email.

However, it can be difficult to keep track of the 'official' version of the minutes when they are created and stored electronically. It is also relatively easy for someone to tamper with the minutes (or replace them with substitute minutes) if they are stored in a loose-leaf binder. For these reasons you should take precautions to make sure the official minutes of meetings are secure, and easily identifiable.

**Tip**

Experience shows that it is best to write up the first draft of minutes as soon as possible after the SGM. Memory is fresh and the task can be done more quickly and efficiently than leaving it until just before the next meeting.

Confirming and verifying minutes

It's good practice for the secretary of an incorporated association to:

- make sure the accuracy of the minutes is 'confirmed' at the next meeting, and
- make sure the chairperson of the SGM (or the chairperson of the next meeting) has 'verified' the accuracy of the confirmed minutes, for example by signing them

**Tool 25**

See [Tool 25: Flowchart for confirming and verifying minutes](#).

Check the rules of your organisation for any special provisions about confirming and verifying minutes.

**Tip**

Your organisation can take the following steps to keep the minutes more secure:

- lock the minutes document from editing or add a password to the document
- distribute the minutes electronically in PDF form rather than in an editable form
- print the minutes out and paste them into an official minute book (and number each page of the minute book consecutively)
- get the chairperson to sign each page of the minute book to confirm official minutes, and
- number each meeting sequentially (for example, 'The Minutes of 2022 Annual General Meeting of XYZ Club Inc')



Part 7

Committee meetings

Committee meetings

This part of the guide covers preparing for, conducting and minuting committee meetings of an incorporated association in Victoria.

Summary of key points in this part of the guide

What is a committee meeting?	A committee meeting is a meeting of the association's committee (or 'governing body'). Sometimes these are called board meetings.
What is a notice of committee meeting?	A notice of committee meeting is a written notice that a committee meeting is to take place at a specified time.
Giving notice of a committee meeting	This part of the guide sets out the requirements for notices of committee meetings of the organisation's committee members. A sample notice and checklist tools are in part 9 of this guide: Tools .
Procedures for a committee meeting	The legal requirements and common procedure at meetings of the committee are set out in this part of the guide.
Voting methods	There is a range of ways in which votes at committee meetings are taken. A variety of voting methods are set out in a tool in part 9 of this guide: Tools .
What are 'minutes'?	Minutes are a written record of what was discussed and decided at a meeting. One of the key legal tasks of the secretary is to make sure that accurate minutes of the organisation's committee meetings are taken, and that these are kept in a safe place. Both the AIR Act and an organisation's rules set out legal requirements for the minutes of the organisation. Those requirements are discussed in this part of the guide.
Preparing and keeping minutes	This part of the guide sets out what should be included in the minutes and how they should be kept. It also contains tips and tools for drafting minutes, including 'action lists' which summarise people's responsibilities arising from a committee meeting.
Confirming and verifying minutes	The secretary should ensure at each committee meeting that the members pass a resolution confirming the minutes of the previous meeting, and the chairperson signs a copy of the

confirmed minutes. This part of the guide explains this procedure, and [part 9 of this guide: Tools](#) has a tool to help you.



What is a committee meeting?

A committee meeting is a meeting of the organisation's governing body (sometimes called the 'board').

Committee meetings are usually less formal than general meetings, so the notice requirements are often less formal too.

Many organisations' rules specify that the committee:

- must meet a certain number of times per year, and
- can hold additional ('special') meetings

Some organisations' rules allow the committee (and any subcommittees) to make their own notice specifications for their meetings. Usually, the committee or a subcommittee will do this by passing a resolution. The AIR Act allows committee meetings to be conducted using technology, provided the technology enables every person to clearly and simultaneously communicate with each participating member of the committee.



Remember

Make sure you have the most up-to-date version of your rules, including any changes that the organisation's members and CAV have approved.

If you are confused about which rules apply to you and whether the copy you have is up-to-date, the best thing to do is to contact CAV and request a copy of your organisation's rules and purposes.



What is a notice of committee meeting?

A 'notice of committee meeting' is a written notice that a committee meeting is to take place at a specified time.

A notice of committee meeting should set out information (such as the date, time, place, and what is proposed to be done) so that committee members can know what the meeting is about.

The contents of a notice of committee meeting may vary significantly from organisation to organisation, depending on the type of organisation and how formal the committee's processes are.

Giving notice of a committee meeting



Tool 26

The checklist in [Tool 26: Checklist for notice of committee meeting](#) will help you to prepare a notice for a committee meeting.

When to give notice of a committee meeting

Your organisation's rules may set out when members of the committee should receive notice of a committee meeting. For example, model rule 59 says that committee members should receive the notice at least seven days before the date of the meeting. Where urgent meetings are required, the seven-day notice requirement is not required to be complied with provided that as much notice as practicable is given to committee members (model rule 60).



Tip

Even if your rules don't require it, it's good practice to give at least one week's notice of a committee meeting, so that members have time to read the papers and prepare properly. In many organisations, the dates of all committee meetings for the year are set at the first meeting of the year. This helps people to plan their availability.

If urgent matters arise, additional meetings with shorter notice can be arranged.

Your organisation's rules may have special notice requirements for a committee meeting which is being held for a particular purpose – such as to discipline a member of the organisation. For example, model rule 21 requires a notice to be given to a member who is being disciplined between 14 and 28 days before the date of the committee meeting. The notice must contain information set out in the rule.

What information should be included in a notice of committee meeting?

A notice of committee meeting doesn't usually need to specify all the business to be dealt with, and any business raised by committee members can generally be considered at the committee meeting. However, important business which is not specified in the notice of committee meeting may be restricted from being considered at the committee meeting. Your organisation's own rules and policies should be checked for any special requirements.



Tip

Some organisations have a rule (similar to model rule 59) that a notice of a 'special' committee meeting (that is, a meeting that is out of the ordinary) must specify the general nature of the business to be conducted, and that no other business may be conducted.



Tool 26

See [Tool 26: Checklist for notice of committee meeting](#) for the types of details that are usually included in a notice of committee meeting.

A notice of committee meeting is usually sent together with documents which provide background information on the matters to be discussed at the meeting, such as:

- the minutes of the last meeting
- reports prepared by staff, volunteers or subcommittees
- financial reports, and
- important correspondence

How to give notice of a committee meeting

Your organisation's rules and policies may also specify how a notice of a committee meeting is to be given. You need to check your organisation's rules and policies.

Most organisations have rules similar to those for giving notice of a general meeting (see, [Giving notice of a special general meeting in part 6 of this guide: Special General Meetings](#)). Many committees pass a resolution allowing notice to be given to committee members by email.

Who should be given notice of a committee meeting?

All members of the committee should be given notice of a committee meeting (plus usually the secretary and Chief Executive Officer (if you have one), if they are not members of the committee themselves). Check your organisation's rules and policies for any special requirements.

What if a committee meeting is adjourned to a later date?

If a meeting is adjourned, you will need to consider whether a new notice is required.

Under model rule 63, if a meeting is adjourned where there is no quorum present after 30 minutes of the start of the committee meeting, the meeting must be adjourned to a date no later than 14 days after the adjournment. The notice for the adjourned meeting must be provided in accordance with model rule 59. Check your organisation's rules for any specific provisions about this. If in doubt, it is best to send out a new notice.

Subcommittee meetings

In larger organisations, subcommittees are sometimes established to consider and make recommendations to the committee on the direction of particular areas of operation of the organisation.

Subcommittees, such as finance or audit subcommittees, are usually created under an organisation's rules, but do not have to be. For example, the rules may give the committee the power to set the 'terms of reference' or scope of a subcommittee as it sees fit and decide which members will form the subcommittee (model rule 42(3)(b)).

Although the committee 'delegates' power to the subcommittee to look at certain matters within its terms of reference, the ultimate responsibility for the governance of the organisation still sits with the committee.

Your organisation's rules may deal with how notice of a subcommittee meeting is to be given and what is to be included in the notice. As a general rule, subcommittee meetings are notified more informally than committee meetings and members of the subcommittee are free to raise any item of business related to the terms of reference at the meeting.

Procedure for committee meetings

What is the usual procedure?

The AIR Act requires the rules of your organisation set out the procedure at committee meetings (item 9(e) of Schedule 1 of the AIR Act). Many organisations' rules specify that the committee:

- must meet a certain number of times per year (for example, model rule 58(1) requires the committee to meet at least four times a year), and
- may hold additional (or 'special') meetings

Your organisation's rules may set out a procedure for committee meetings that is essentially the same as for general meetings. However, generally, the procedure for committee meetings is less formal than for general meetings – mainly because of the smaller number of people involved and the need to meet more often.



Nevertheless, the committee should be careful to:

- clearly record their decisions and actions (usually this is the secretary's task)
- note any actual or potential conflicts of interest (see [part 3 of this guide: Secretary's Legal Role, Powers and Duties](#)) and details of how the meeting dealt with voting on contracts or matters to which these relate
- carefully consider the organisation's financial position, and
- approve or ratify any expenditure for the organisation

Check your organisation's rules, policies and practices for any special requirements.

How many people need to be at a committee meeting?

The AIR Act requires the rules of your organisation must set out the quorum (minimum number of people) at committee meetings (item 9(e) of Schedule 1). Many organisations have a rule (similar to model rule 63), which provides that:

- the quorum for a committee meeting is the presence of the majority of committee members
- no business can be conducted unless a quorum is present, and
- if a quorum is not present within half an hour of the time for the start of the meeting, then:
 - if the meeting is a special committee meeting — it lapses (that is, the meeting does not happen at all), or
 - if the meeting is an ordinary committee meeting — it is adjourned to a date no later than 14 days later, and notice must be provided of the time, date and place, in accordance with rule 59

Check your organisation's rules carefully.

Adjourning committee meetings

Your organisation's rules may include specific provisions about how and when committee meetings can be adjourned (for example, see above for where there is no quorum). However, there may also be other circumstances where adjourning the meeting is appropriate. Check your organisation's rules.

Subcommittee meetings

Subcommittee meetings (which may involve fewer people than committee meetings) are usually conducted on a less formal basis than general meetings, or even committee meetings. However, each subcommittee should take care to record clearly their conclusions, actions and recommendations.

The secretary is responsible for ensuring that records of subcommittee meetings are properly maintained by the organisation. If the secretary is not present at a subcommittee meeting, they should arrange for someone else to take minutes, and for that person to give a copy of the minutes to the secretary.

Voting methods

Decisions of a committee are generally made by consensus, but if a vote is required there are various ways in which votes can be taken at a committee meeting. The most common methods are voting by show of hands or by count (that is, a vote in writing).

Carefully check your own organisation's rules and policies about voting methods. Your organisation's rules may require certain methods and not allow others. For example, model rule 64 does not permit proxy voting for committee meetings.

How to vote on a special resolution

Voting on a special resolution should be conducted as required or permitted by your organisation's rules.

Abstaining from voting

Some committee members may decide not to vote at all (that is, 'abstain from voting') and they may wish to have the secretary record their names in the minutes as having abstained.

In circumstances where a committee member has a 'material personal interest' in a matter, that member is not permitted to participate in discussions about or vote on the matter (see section 81 of the AIR Act and model rule 65).



Model rule 65(4) and 65(5) requires the committee to maintain a conflict of interest register that includes:

- the name and position of the committee member who has disclosed a 'material personal interest'
- a description of the nature and extent of the disclosed interest, and
- a plan that sets out any actions required to mitigate the disclosed interest (see model rule 65(4)(5))

For more information on conflict of interests – see [part 3 of this guide: Secretary's Legal Role, Powers and Duties](#).

Sometimes a member may oppose the motion and request that their opposition is noted in the minutes.

What if a vote is tied?

If a vote is tied, most organisations' rules say (as in model rule 64) that the chairperson has a second (or 'casting') vote to decide the matter. Commonly, the chairperson will exercise this vote to maintain the existing situation (so that a controversial resolution will not be passed).

What if a committee member is unable to attend a committee meeting and vote in person?

If a committee member is unable to attend a committee meeting to cast their vote in person, that member may, depending on the rules of their organisation, transfer their voting rights to another committee member (commonly called a proxy). The model rules do not permit proxy voting at committee meetings. For more information about forms of 'absentee' voting, see '[Voting methods](#)' in [part 6 of this guide: Special General Meetings](#).



Remember

The AIR Act allows attendance at meetings through technology, such as phone or video conferencing.

An organisation may, under its rules, permit direct voting to allow committee members who will be absent from a committee meeting to cast their own vote by completing and lodging a voting form before that meeting. The model rules do not explicitly permit direct voting at committee meetings.



For more information about direct voting, including how an organisation can amend its rules to implement a system of direct voting, see, '[Voting methods](#)' in [part 6 of this guide: Special General Meetings](#).

Some organisations' rules permit resolutions to be passed by the committee in the absence of a meeting, provided it is agreed in writing by all committee members. This is sometimes called a 'circular resolution'. Note the model rules do not provide for resolutions to be made in this way.

Minutes



What are 'minutes'?

The word 'minutes' has been used for centuries to mean a summary of the proceedings of an assembly or committee.

Today, minutes are a formal written record of the matters discussed and the decisions made at a meeting.



One of the main tasks of the secretary of an incorporated association is to make sure that:

- minutes are taken of each meeting (including committee meetings) of the organisation
- minutes are confirmed as an accurate record of the meeting, and
- the minutes of all meetings are kept safely by the organisation for future reference

The legal requirements for preparing and keeping minutes of committee meetings come from the AIR Act and the organisation's rules. Your organisation may also have particular policies and practices for taking and keeping minutes.

There are other laws which you should be aware of when preparing and distributing minutes, including defamation and privacy laws. These are discussed briefly in this part of the guide.

AIR Act requirements

The AIR Act requires the rules of Victorian incorporated associations to include provisions about keeping accurate minutes of committee meetings and, if allowed in the rules, the conditions on which members can access such minutes of the committee (items 14 and 15 of Schedule 1 of the AIR Act).

If your organisation's rules don't cover any of the matters in Schedule 1 of the AIR Act, the provisions of the model rules that address those matters apply to your organisation automatically.

In addition, an inspector from CAV may, with a Magistrates' Court order, require the organisation, or any person who is involved in the organisation's activities (which includes the secretary) to give the inspector specified relevant documents (which may include minutes) of the organisation (sections 158 and 159 of the AIR Act). CAV may choose to use these powers to make sure that the organisation has complied with the AIR Act and the Regulations.

It is therefore important that the secretary makes sure that accurate minutes are taken of the committee meetings and that they are kept in a safe place.

Your organisation's rules

Schedule 1 of the AIR Act requires that the rules of all incorporated associations include additional provisions about:

- preparing and keeping accurate minutes of committee meetings, and
- the condition on which members can gain access to committee meeting minutes if such access is permitted in an organisation's rules

For example, under the model rule 66, the committee must make sure that minutes are taken of all its meetings. The minutes must record who was at the meeting, the business discussed, any resolutions made and the result of the vote, and any material personal interests disclosed by committee members (for more information on managing conflicts of interest, see [part 3 of this guide: Secretary's Role, Powers and Duties](#)).

Your organisation's policies

Check your organisation's policies and practices about taking and keeping minutes. If you don't have any, your organisation may choose to create policies, using this Guide for assistance.

Preparing and keeping minutes

The form of minutes varies depending on the type of organisation and the type of activities it undertakes.

Minute books

Minutes are often entered into a 'minute book'. Until recently a minute book was a securely bound book with sequentially numbered pages. The minutes were handwritten into the book. This guarded against fraud or tampering. While some organisations may still use handwritten minute books, many organisations create and store minutes electronically and distribute them by email.

However, it can be difficult to keep track of the 'official' version of the minutes when they are created and stored electronically, and it is relatively easy for someone to tamper with the minutes (or replace them with substitute minutes) if they are stored in a loose-leaf binder. For these reasons you should take precautions to make sure the official minutes of meetings are secure, and easily identifiable.



Tip

Your organisation can take the following steps to keep the minutes more secure:

- lock the minutes document from editing or add a password to the document
- print the minutes out and paste them into an official minute book (and number each page of the minute book consecutively)
- get the chairperson to sign each page of the minute book to confirm official minutes
- number each meeting sequentially (for example, 'Minutes of Committee Meeting No. 3 of 2012 of XYZ Club Inc')
- distribute the minutes electronically in PDF form rather than in an editable form, and
- clearly mark the minutes as 'confidential' if they contain sensitive, confidential or personal information

Content of the minutes



Tool 27

For detailed information about the usual matters to include in the minutes of meetings, see [Tool 27: Checklist for contents of minutes](#).

Importantly, the minutes should record the motions moved and resolutions made at the committee meeting.

Drafting the content – generally

The format and style of minutes vary considerably among organisations. Some minutes are very brief and precise, and record the bare minimum of information. Other minutes include 'blow by blow' summaries of the debate (which is unnecessary and we recommend avoiding). Check your own organisation's rules, policies and practices.



Tool 20

Despite variety in the form of minutes, there are some commonly accepted drafting conventions – see [Tool 20: Conventions for drafting minutes](#).



Tip

The minutes are an official historical record of the committee and the organisation, so it is good practice to record in the minutes the name and position of office bearers (chairperson, secretary, treasurer) present.



Drafting motions and resolutions

The exact wording of the motion should appear in the minutes. If there is a problem with the wording of a resolution (that is, a motion which is passed at the committee meeting), this will have to be corrected at a later meeting. The secretary has no power to alter the wording of a motion passed at a meeting in order to correct a mistake.

The wording of the motion must comply with your organisation's rules, including its purposes — it cannot recommend any action outside the scope of your organisation's powers and activities. The motion must also be allowed to be made by the committee meeting, especially if the meeting has been called for a specific purpose.



Tip

If a motion is proposed verbally at a meeting, the secretary may find it helpful to:

- write the motion down on a board or flip chart and show it to the meeting during the debate, or
- require the motion to be given to them in writing by the member proposing it

This way, any corrections to the wording of the motion can be made before voting on the matter and it also gives the secretary a chance to draft the motion in a way which can be suitably recorded in the minutes.

For each motion, the minutes should record:

- the names of people who move and second the original motion and any amendments
- the method of voting (for information about voting methods, see '[Voting methods](#)' in this guide), and
- whether the motion was passed (in which case it becomes a resolution), rejected, or adjourned (that is, put off until another meeting)

See [Tool 20: Conventions for drafting minutes](#).



Tip

It's useful for the secretary to circulate draft minutes with an 'action list' to the people or subcommittees who have been given specific tasks at the committee meeting.

Drafting minutes of difficult meetings

Sometimes committee meetings get heated and the participants resort to personal attacks, walk-outs, threats and inappropriate remarks. In many instances, the chairperson may require such remarks to be withdrawn (therefore the remarks are not recorded). In other cases, it is sufficient to record that 'a vigorous discussion ensued' rather than a blow-by-blow account in the minutes (which is unnecessary and we recommend avoiding).

See [Tool 20: Conventions for drafting minutes](#).



Tip

For difficult meetings, the secretary could consider:

- asking the chairperson for specific help to draft the minutes (in any case, it is good practice for the secretary to always check the minutes they have drafted with the chairperson before distributing them to others)
- unless a motion was made or resolution passed, omitting the controversial material altogether. The minutes will have to be approved at the next meeting and, if it is considered necessary to include more detail, it can be agreed on then, and
- marking the minutes as 'confidential' to make it clear that access to them is intended to be limited

Defamation

Sometimes a secretary will have to deal with potentially defamatory matters in the minutes of committee meetings. A chairperson should challenge any potentially defamatory statements at the time they are made in a committee meeting and have them withdrawn. The statements will then not be recorded in the minutes. In most cases, potentially defamatory statements do not need to be included in the minutes.

If an organisation has published defamatory statements in the minutes of a meeting, the defence of 'qualified privilege' may be available. However, the organisation should seek specific legal advice.

Generally a 'defamatory statement' about a person is one that:

- exposes the person to hatred, contempt or ridicule
- tends to lower them in the opinion of other people
- harms their reputation (for example in their profession), or
- causes them to be shunned or avoided by others



Remember

The law of defamation is complex. If a secretary is concerned about any potential defamatory matters when drafting minutes, they should seek legal advice before finalising and distributing the minutes to anyone.

Confirming and verifying minutes

It's good practice for the secretary of an incorporated association to:

- make sure that the accuracy of the minutes is 'confirmed' at the next committee meeting, and
- make sure that the chairperson of the meeting (or the chairperson of the next meeting) has 'verified' the accuracy of the confirmed minutes, for example by signing them



Tool 28

See [Tool 28: Flowchart for confirming and verifying minutes](#).

Check the rules of your own organisation for any special provisions about confirming and verifying minutes.



Part 8

**Reporting to Consumer Affairs
Victoria**

Reporting to Consumer Affairs Victoria

This part of the guide covers the obligations of an incorporated association in Victoria to report to Consumer Affairs Victoria (CAV).



Caution

Victorian incorporated associations that are also registered charities with the Australian Charities and Not-for-profits Commission (ACNC) are **not** required to:

- lodge an annual statement with Consumer Affairs Victoria, or
- pay an annual statement lodgement fee

This exemption does not apply to charities who have been approved by the ACNC to withhold financial details or financial reports from the ACNC register.

For further information see our resources on [our reporting to government webpage](#) or refer to Consumer Affairs Victoria [website](#).

Summary of key points in this part of the guide

What are the legal requirements for reporting to Consumer Affairs Victoria?

The secretary of an incorporated association is required to report to CAV about certain matters, including the organisation's financial affairs in an 'annual statement' (section 102 of the AIR Act).

Accounting requirements

Each incorporated association must maintain financial records that are correct, true and fair for seven years after the transactions covered by the records are completed (section 89 of the AIR Act). These records are the basis of the organisation's financial statement. Requirements differ for organisations based on which revenue category, or 'tier', they fall into. The Treasurer usually has a key role preparing the financial statements, but the secretary must lodge them as part of the annual statement to CAV.

Preparing and lodging the annual statement

Every year, a financial statement must be submitted to members of the organisation at the annual general meeting. This must happen before the secretary lodges the annual statement with CAV. The financial statement must contain certain information and be certified by committee members, and there are particular

Can Consumer Affairs Victoria refuse to register documents?

requirements for preparing and lodging the annual statement, depending on which 'tier' the organisation falls into (regulation 16 of the Regulations).

In some circumstances CAV can refuse to register documents (section 204(1) of the AIR Act). This includes when CAV considers a lodged document is not a valid document of the organisation. This part of the guide explains what an organisation can do if CAV refuses to register a document.

What are the legal requirements for reporting to Consumer Affairs Victoria?

The main legal task of the secretary of an incorporated association in Victoria is to report to CAV about the affairs of the organisation. To comply with their legal obligations, a secretary must have an online myCAV account.

The legal requirements for reporting to CAV arise under:

- the AIR Act, and
- the Regulations

AIR Act requirements

Lodging the annual statement

Under the AIR Act, every year the secretary must lodge an annual statement with CAV. This must be done within one month after the AGM where the organisation's financial statement is considered by the members of the organisation (although the secretary can seek an extension of time by lodging an extension form and paying an extension fee).

The AIR Act and the Regulations set out what must be contained in the organisation's:

- **financial statement** (which is provided to members at the AGM), and
- **annual statement** (which is lodged with CAV – see part 7 of the AIR Act)



Tool 29

See [Tool 29: Flowchart for preparing and lodging the annual statement](#).



Remember

If the secretary fails to lodge the annual statement within the required time, the organisation may be ordered to pay a penalty (section 102(1) of the AIR Act). At March 2024, the maximum penalty for this breach under the AIR Act is around \$961.55 (5 penalty units) (this amount is indexed each year on 1 July).

Other CAV reporting requirements

The secretary is also required to report to CAV, and lodge relevant documents or forms, in other situations.

These include:

- within 14 days after a new secretary is appointed or when the secretary's details change (see [part 2 of this guide: Appointing and Removing a Secretary](#))
- to get approval from CAV for changes to the organisation, after members have passed a special resolution to:
 - change the association's name (section 24 of the AIR Act)
 - change the association's rules (section 50 of the AIR Act), or
 - amalgamate with another organisation (section 18 of the AIR Act) (see [part 6 of this guide: Special General Meetings](#)), or
- when the organisation has given a notice of a proposal to remove an auditor to its members (section 106 of the AIR Act) (see [part 6 of this guide: Special General Meetings](#))

These requirements are discussed in detail in other parts of this guide.



Caution

This part of the guide deals with CAV reporting requirements only. However, your organisation may also have responsibilities to report to other institutions and government agencies (for example, under funding agreements or tax laws) about changes to its governing documents (rules), or changes to the people who are authorised to act on behalf of the organisation.

For example, organisations should notify the Australian Tax Office of a change in their secretary or office bearers – see [part 2 of this guide: Appointing and Removing a Secretary](#).

Accounting requirements

An incorporated association must maintain financial records that:

- correctly record and explain its financial transactions, and
- allow for 'true and fair' financial statements to be prepared (section 89 of the AIR Act)

These financial records are the basis of your organisation's financial statement submitted to members at the AGM, and the annual statement lodged with CAV. The treasurer of the organisation is generally responsible for overseeing and reporting on the organisation's financial affairs. The financial records must be retained for seven years after the transactions covered by the records are completed (section 89(2) of the AIR Act).

The AIR Act has a three-tiered scheme for the financial reporting of organisations, based on their 'total revenue' for financial year. For example, 'tier three' (the highest tier) associations are required to have an auditor (an accountant who checks and confirms the accuracy of the organisation's financial records) and comply with special accounting requirements (see below, 'tier one', 'tier two' and 'tier three associations'), but 'tier one' associations normally do not.

You should check your organisation's rules (see [part 1 of this guide: Overview of an association](#)) and any contracts (for example, funding agreements) for any particular accounting or auditing requirements that apply in addition to CAV's requirements. Do your rules require the accounts to be audited each year? Even if you are not a tier three association, your rules (or a condition of funding from government) may require this.



Remember

An organisation can be penalised under the AIR Act for failing to keep correct, true and fair financial records. At March 2024 the penalty under the AIR Act is about \$1,923.10 (10 penalty units) (this amount is indexed each year on 1 July).

'Tier one', tier two' and 'tier three' associations

The AIR Act classifies organisations into one of three tiers, based on their total yearly revenue (and in some cases, CAV can declare an organisation falls into a higher or lower category). Under s 90(5) of the AIR Act 'total revenue' means the total income of the association during the last financial year of the association from all the activities of the association. This would include grants, donations, and any income from fundraising or selling goods.

The particular financial reporting requirements of the organisation are determined by what tier it falls into.

Tier one associations

A tier one association is an organisation with a total yearly revenue of less than \$250,000 (unless another amount is determined by CAV). From 1 July 2024, the total yearly revenue for a tier one association will be increased to less than \$500,000 (unless another amount is determined by CAV).

Tier one associations have an obligation to prepare financial statements that 'give a true and fair view of the financial position and performance' of the organisation during and at the end of its last financial year (section 92(2) of the AIR Act).

There is no requirement under the AIR Act for a tier one organisation to have its financial statement independently audited or reviewed. However, members can vote at a general meeting to require the organisation to have its accounts reviewed. In some circumstances, CAV can direct a tier one organisation to have its financial statements reviewed.

Tier two associations

A tier two association is an organisation with a total yearly revenue of between \$250,000 and \$1 million (unless another amount is determined by CAV). From 1 July 2024, the total yearly revenue for a tier two association will be increased to revenue between \$500,000 and \$3 million (unless another amount is determined by CAV).

Before the financial statements of a tier two organisation are submitted to the AGM, the organisation must have its financial statements reviewed by an independent accountant.

An independent accountant (that is, a person qualified to review a tier two organisation's financial statement) is:

- a person who is a member of CPA Australia, the Institute of Public Accountants or Chartered Accountants Australia & New Zealand, or
- any other person approved by CAV as a reviewer for this purpose (section 96(1) of the AIR Act)

The financial statements of a tier two organisation must be prepared in accordance with the Australian Accounting Standards (**AASs**).



Tip

If your organisation uses an accountant that is registered with one of the three professional accounting bodies (CPA Australia, the Chartered Accountants of Australia and New Zealand, or the Institute of Public Accountants) then they are required to use the AASs.

Tier three associations

A tier three association is an organisation with a total yearly revenue over \$1 million. From 1 July 2024 the total yearly revenue will be increased to over \$3 million. It must have its financial records audited by a certified auditor before the financial statement is submitted at the AGM.

A certified auditor (that is, a person qualified to review a tier three organisation's financial statement) is:

- a registered company auditor, or a firm of registered company auditors
- a person who is a member of CPA Australia, the Institute of Public Accountants or Chartered Accountants Australia & New Zealand, or
- any other person approved by CAV as an auditor for this purpose (section 99(2) of the AIR Act)

The financial statements of a tier three organisation must be prepared in accordance with the AASs.

What is the difference between a 'review' and an 'audit'?

The purpose of an 'audit' is to confirm that an organisation (in this case, a tier three organisation) has prepared its financial statements in accordance with relevant AASs. As part of the audit process, the auditor must be satisfied (and declare in their report) that the organisation's financial statements are true, fair and free from any serious error.

A 'review' of financial statements is less in-depth than an audit. It only enables the reviewer to highlight items that may prevent an auditor from confirming that the financial statements are true, fair and free from any serious error. Because a review of financial statements is less detailed and less formal than an audit, it is normally cheaper than a full audit. Also, more professionals are qualified to undertake a 'review' than an 'audit'.

A reviewer or auditor must be an 'independent person'

If your organisation requires a review or an audit of its financial statements (see above), your reviewer or auditor must be an 'independent person'. This means that they should not be:

- a member of the committee of your organisation
- an employer or employee of a member of the committee
- a business partner of a member of the committee, or
- an employee of your organisation



Note

As a matter of good practice (and to reassure members, funders and those dealing with your association that the reviewer or auditor is not biased), they should be as independent as possible from those connected with the association. This is the policy reason behind these requirements in the AIR Act.

What to do with the auditor or reviewer's report

For tier two organisations

The reviewer must give your organisation a written report of the review (section 96(2) of the AIR Act), and that report must be provided to members at the AGM. You must also attach a copy of the reviewed financial statements and the reviewer's report to your organisation's annual statement when it is lodged with CAV (section 102(3)(a) of the AIR Act) or the ACNC.

For tier three organisations

The auditor must give your organisation a written report of the audit (section 99(3) of the AIR Act) and that report must be provided to members at the AGM. A copy of the audited financial statements and the auditor's report must be attached to your organisation's annual statement when it is lodged with CAV (section 102(3)(b) of the AIR Act) or the ACNC.



Note

The AIR Act requires associations to keep certain documents, including annual statements for at least seven years. See [part 4 of this guide: Registers, Records and Official Documents](#).



Caution

There are penalties under the AIR Act if an association fails:

- in the case of a tier one organisation, to have its financial statements reviewed where a resolution is passed at a general meeting to do so or CAV requires it
- in the case of a tier two organisation, to have its financial statements reviewed, or
- in the case of a tier three organisation, to have its financial statements audited

At March 2024, the maximum penalty for each failure is about \$1,923.10 (10 penalty units) (this amount is indexed each year on 1 July).

Re-classification as tier one or tier two association

If, in a particular financial year, there are 'unusual and non-recurring circumstances' that result in your organisation falling into a higher tier than usual, your organisation can apply to CAV to be exempt from the reporting requirements of the higher tier. CAV may then declare that the organisation is not in that higher tier for that year.



Example

If ABC Inc, a tier one organisation, receives a one-off project grant that doubles its total yearly revenue to \$510,000 (pushing it up into 'tier two' - just!), they can apply to CAV for an exemption from tier two requirements. CAV may 'declare' under section 91 of the AIR Act that ABC Inc is a tier one association for that year, and therefore ABC Inc would not be required to incur the expense of having its financial statements reviewed.

Preparing and lodging the annual statement Financial statement (submitted to the members at the annual general meeting)

Depending on how your organisation is run, the financial statement may be prepared by the secretary, treasurer or other member of the organisation's committee or staff. The financial statement must be presented to members of the organisation at the AGM to provide the members of your organisation the opportunity to consider the financial statement before the annual statement is lodged with CAV, or if your organisation is eligible to only report to the ACNC (see the caution box at the beginning of this part of the guide). This is also important so that the members can check the financial dealings and position of the organisation.

Your organisation's financial statement must include certain details required by the AIR Act (section 101 of the AIR Act).



Tool 29

The details required by the AIR Act are set out in [Tool 29: Flowchart for preparing and lodging the annual statement](#).

Overall, the financial statements must 'give a true and fair view' of the financial position of your organisation during and at the end of its last financial year.

At the AGM, the organisation must submit the following to members:

- financial statements
- a certificate signed by two committee members verifying that the financial statements are a true and fair reflection of the financial position of the organisation, and
- review or audit report (if required)

See also [part 6 of this guide: Special General Meetings](#). Your organisation can be fined for failing to submit the required documents at the AGM.

At the AGM or as soon as possible afterwards, a member of the committee must certify in writing that the financial statement was submitted to members at the AGM.



Tool 29

For more details about actions which must be taken after the annual general meeting, see [Tool 29: Flowchart for preparing and lodging the annual statement](#).

Also check your organisation's rules to see if there are any extra requirements.



Caution

The AIR Act requires an organisation to keep:

- the financial statement (as submitted to members at the annual general meeting) for at least seven years after the date it was submitted to members (section 105(1) of the AIR Act)
- the certificate from a committee member who attended the AGM for at least seven years after the date signed (section 105(2) of the AIR Act), and
- originals of all documents lodged with CAV (for example, audited accounts and the auditor's report) for at least seven years after the date of lodging (section 201 of the AIR Act)

An organisation can be fined if it fails to keep these documents. At March 2024 an organisation can be ordered to pay as much as \$3,846.20 (20 penalty units) (this amount is indexed each year on 1 July) in some circumstances.



Annual statement (lodged with CAV)

Every year before your AGM, CAV will send the secretary of your organisation, by email, a notice that the annual statement is required to be lodged. This is unless the organisation only needs to report to the ACNC (see the caution box at the beginning of this part of the guide). The notice will include a link to the myCAV page. Within one month after the AGM the secretary must, via the online system myCAV, lodge the requisite documents.

The documents that must be lodged by the secretary with CAV are:

- the annual statement form
- the financial statement (certified by two committee members)
- the committee member's certificate confirming that the statement was presented at the organisation's AGM
- copies of any resolutions passed about the financial statement, and
- the review or audit report (if applicable)

If an extension of time for holding the AGM has been granted by CAV under section 104(1)(a) of the AIR Act, the documents are required to be submitted within a month after the last day of the period in which an AGM is required to be held (section 102(2)(b) of the AIR Act).

An organisation can apply to CAV for an extension of time to lodge the annual statement (regardless of whether the time for holding the annual general meeting has been extended). See below, '[Applying for extensions of time](#)'.

Remember that the documents you will be required to submit to CAV (or the ACNC) on behalf of your organisation will depend on which category of tier your organisation falls into.

When lodging the annual statement form with CAV, the secretary must attach certain documents and pay the prescribed lodging fee. These are all discussed in [Tool 29: Flowchart for preparing and lodging the annual statement](#).



Note

If your organisation passed a resolution about the financial statements at the AGM (for example, approving the financial statement with some modifications), this resolution must be attached to the annual statement lodged with CAV.

The secretary must lodge the annual statement via the online system myCAV. However, if there are any difficulties accessing this information the secretary can contact the CAV Helpline.



Note

Documents submitted to members of an organisation at a general meeting or lodged with CAV should give a true and accurate picture of your organisation. It is an offence under section 208 of the AIR Act to:

- knowingly make a statement that is false or misleading in a relevant detail, or
- knowingly leave out any matter or thing from the document, which makes the document misleading in a relevant detail

It's also an offence for anyone to authorise someone to do any of these things, or to do any of the above without having taken reasonable steps to ensure that the statement or omission was not false or misleading.

This is a serious matter under the law. At March 2024, the penalty for each of these offences is up to \$11,538.60 (60 penalty units) (this amount is indexed each year on 1 July).

In exceptional circumstances (in addition to those extended to organisations registered with the ACNC), CAV may permit an organisation not to submit an annual statement (this is known as 'exempting' the organisation). An exemption can apply either generally or for a specific year (section 103 of the AIR Act). Unfortunately, there is no guidance on when CAV may grant such an exemption.



Caution

If your organisation does not lodge its annual statement in each of two successive years, your organisation may be wound up (that is, closed down) by CAV (section 127(2)(e) of the AIR Act).

Applying for extensions of time

The secretary may apply to CAV for an extension of time to hold an AGM or to lodge the annual statement (section 104 of the AIR Act). To apply, the secretary can download [the 'Application for Extension of Time' form from CAV's website](#). Complete the form, and then deliver or post it to CAV.

Can Consumer Affairs Victoria refuse to register documents?

CAV can refuse to register or receive documents lodged by an organisation for a number of reasons (sections 204 and 205 of the AIR Act), including:

- if the document does not comply with the requirements of the AIR Act
- if the document contains matter that is materially false or misleading
- if the document is missing details or contains an error, or
- if CAV considers that the document is not a valid document of the organisation – for example, when an organisation splits into rival groups and each group seeks to lodge documents with CAV, claiming that they are the official version

If CAV refuses to register a document because it is considered invalid, your organisation can request that CAV reconsider the decision. If CAV reconsiders, and still decides not to register the document, you can request that CAV to refer the question to the Magistrates' Court. CAV must ask the Court to decide whether the document is valid or not. If the Court decides the document is valid, CAV must register it.

It's important to ensure that CAV considers the documents valid, as your organisation will breach the AIR Act requirements if CAV refuses to register a document.

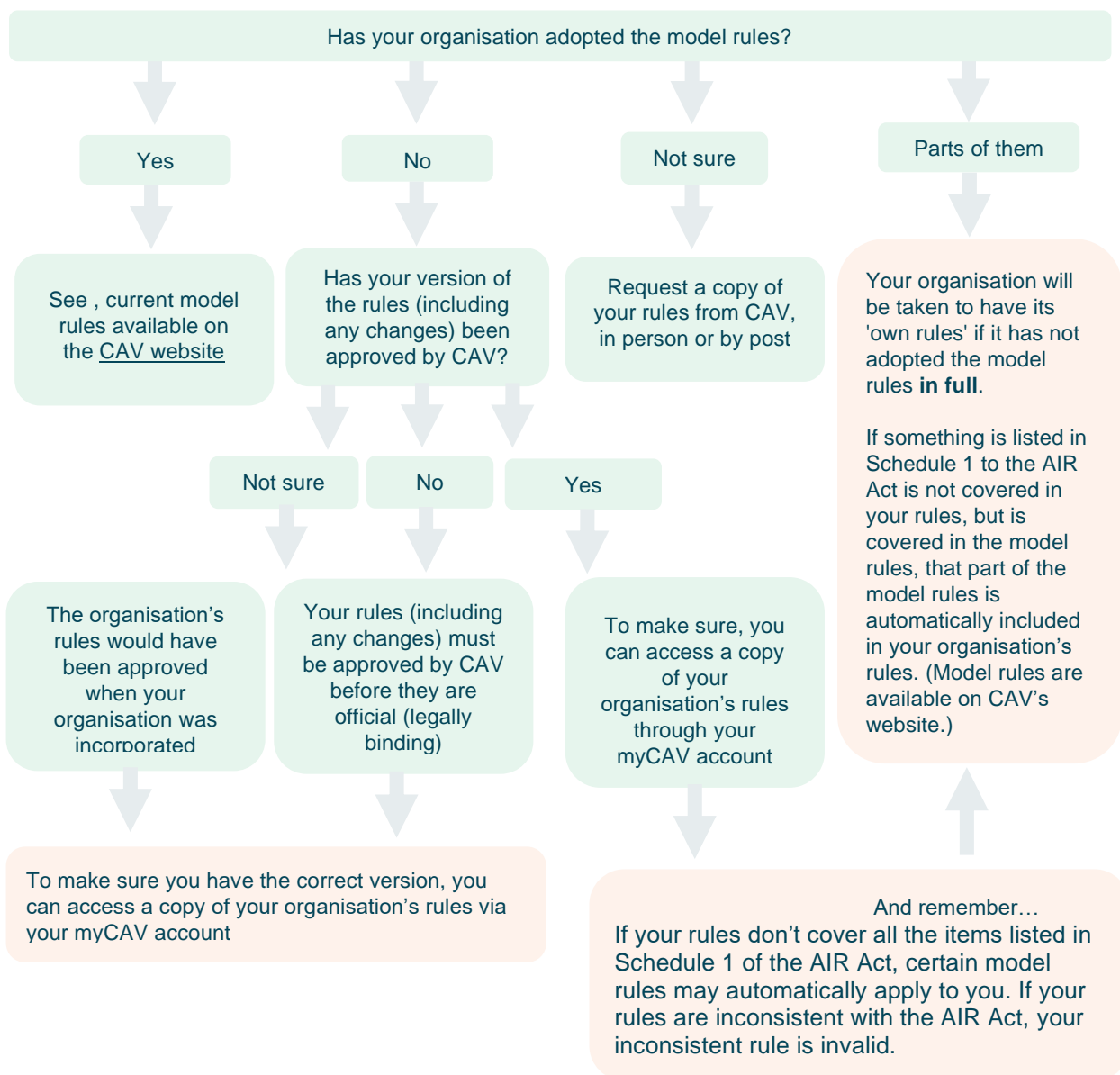


Part 9

**Tools – practical tools to help run
Victorian incorporated associations**

Tools

Tool 1: Flowchart for working out your association's current rules





Tool 2: Main tasks of a secretary – meetings

What does the secretary do?	Relevant section / role	Tips or comments
Set a date for any meeting of the organisation's members or committee, and gather relevant materials.	See items 17 & 19 of Schedule 1 of the AIR Act. Your organisation's rules may set out details of the frequency of meetings: see, for example model rule 58 (in Schedule 4 of the Regulations).	The secretary will usually call meetings in consultation with committee members and in accordance with the AIR Act and Rules. It is common practice for the secretary to do the following before each meeting: <ul style="list-style-type: none"> • prepare the 'notice of meeting' and the agenda in consultation with the chairperson • check the minutes of the last meeting for any items of 'business arising' • arrange correspondence and summarise longer letters • coordinate any reports to be presented at a meeting (for example, reports from sub-committees and treasurer) • confirm arrangements for any visitors or guest speakers, and • arrange the meeting venue
Send out notices of the meetings.	See item 19 of Schedule 1 of AIR Act; and see, for example, model rules 59 and 74.	See item 19 of Schedule 1 of AIR Act; and see, for example, model rules 59 and 74.
Organise the AGM, including working with the treasurer to ensure the financial report is ready to be presented to the organisation's members.	Section 63 and part 7 of AIR Act; and see, for example, model rule 30.	The AIR Act specifies the timing of AGMs. See part 5 of this guide: Annual General Meetings . The AIR Act also sets out exactly what financial matters must be reported on at the AGM. See also part 8 of this guide: Reporting to Consumer Affairs Victoria .
If proxies are allowed at meetings of members, receive proxy notices.	See item 18 of Schedule 1 of AIR Act; and see, for example, model rule 34.	The secretary must check the rules to see if proxies are allowed, and who can act as proxy (commonly, only another member of the organisation can act as proxy). Proxies should be appointed in accordance with any requirements in the rules. See part 6 of this guide: Special General Meetings .
Take the minutes (or arrange for someone else to take them) and keep them in a safe place.	See item 14 of Schedule 1 of the AIR Act, and see, for example, model rules 41 and 66.	Keeping accurate minutes is one of the key responsibilities of the secretary — see part 6 of this guide: Special General Meetings .



Tool 3: Main tasks of a secretary – membership

What does the secretary do?	Relevant section / role	Tips or comments
Receive applications for membership of the organisation (and notices of member resignations).	See section 51(2) of the AIR Act, and see, for example, model rule 9.	<p>The secretary usually advises the committee of applications, notifies successful applicants in writing, and enters relevant details in the members' register.</p> <p>The secretary also receives notices of resignation and records details in the members' register.</p>
Keep and maintain the register of members.	See section 56 of the AIR Act, and see, for example, model rule 18.	<p>Keeping the members' register up-to-date is a core part of the secretary's role. The register sets out information about members of the organisation. For more information, see part 4 of this guide: Registers, Records and Official Documents.</p> <p>The secretary should review the members' register (especially before the AGM) to check whether members are up to date with their membership fees and have voting rights.</p>
Receive, assess and decide on requests from members to restrict their personal information held on the register of members.	See section 59 of the AIR Act.	<p>Where a member requests that access to their personal information on the members' register be restricted, the secretary must restrict the information if satisfied there are 'special circumstances'.</p> <p>The secretary should consider having a policy on such requests, including what they consider 'special circumstances' to be.</p> <p>The secretary also has an obligation to pass on to a member who has had their personal information restricted material from another member that relates to the management, activities or purposes of the association. (In a way, the secretary becomes the 'mail box' for members whose personal details have been restricted).</p>
Keep and maintain relevant documents of the organisation (such as financial statements and contracts) and make them available for inspection by any member on (reasonable) request where the disclosure does not breach a law. The model rules contain a further restriction that relevant documents will not be disclosed where to do so would be prejudicial to the organisation.	See items 11 and 13 of Schedule 1 of the AIR Act, and see, for example, model rule 75.	<p>The secretary usually handles any requests by members to inspect the organisation's 'relevant documents'. For more information, see part 4 of this guide: Registers, Records and Official Documents.</p>



What does the secretary do?	Relevant section / role	Tips or comments
<p>Prepare and keep accurate minutes of general meetings of the organisation and make them available for inspection by any member on (reasonable) request.</p>	<p>See section 53 and items 14 & 15 of Schedule 1 of the AIR Act.</p>	
<p>Keep an-up-to date copy of the rules and members' register (with entries appropriately suppressed where validly requested by a member) and make them available for inspection by any member on (reasonable) request.</p>	<p>See sections 53 and 57 of the AIR Act.</p>	<p>At the request of a member, an incorporated association must make a copy of its rules and members' register available for inspection at any reasonable time by a member. A member may also request to obtain a copy of the rules. The secretary usually handles such requests.</p> <p>If you are unsure what your organisation's rules are, see part 1 of this guide: Overview of an association.</p> <p>Note that under section 59 of the AIR Act, members can request that their details on the member's register be suppressed and these details should not be released for inspection.</p>



Tool 4: Main tasks of a secretary – record keeping

What does the secretary do?	Relevant section / role	Tips or comments
Keep, for at least seven years, originals of any documents the organisation has lodged with CAV.	Section 201 of the AIR Act.	Keeping correspondence and other documents relating to the organisation is relatively straightforward in small organisations. However, in larger organisations the paid staff and treasurer will probably keep custody of many of the organisation's documents. In such cases, the secretary would fulfil their functions by maintaining a system of control to ensure all of the organisation's correspondence is available to them on request.
Keep, for at least seven years, financial statements submitted to members at the annual general meeting and certificates of a member of the committee.	Section 105 of the AIR Act and see, for example, model rule 70 (in Schedule 4 of the Regulations).	See also part 4 of this guide: Registers, Records and Official Documents .
Keep custody of all books, documents and securities of the organisation.	See item 11 of Schedule 1 of the AIR Act and see, for example, model rule 75 (in Schedule 4 of the Regulations).	
Keep custody of the organisation's common seal (if any).	See item 12 of Schedule 1 of AIR Act and see, for example, model rule 72 (in Schedule 4 of the Regulations).	
Return documents when no longer the secretary (especially any original documents).	Section 88 of AIR Act.	A secretary has access to documents of the organisation because of the secretarial and external reporting tasks they perform. When they are no longer the secretary, they must return the documents to the organisation's committee within 28 days. For more information about the secretary's external reporting functions, see part 8 of this guide: Reporting to Consumer Affairs Victoria .



Tool 5: Checklist for records of fundraising appeals

This checklist is for organisations that are registered as fundraisers under the *Fundraising Act 1998 (Vic)* (**Fundraising Act**). It covers the details your organisation should include in your organisation's records of fundraising appeals to satisfy the requirements of the Fundraising Act and the *Fundraising Regulations 2009 (Vic)*.

Order	Description	Done
1	Funds and assets received as a result of the appeal	<input type="checkbox"/>
2	What happened to all those funds and assets	<input type="checkbox"/>
3	The amount applied to the purposes or objects of the appeal and how it was distributed	<input type="checkbox"/>
4	Any expenditure on assets	<input type="checkbox"/>
5	Any expenditure on wages, salaries, commissions and other remuneration in relation to the appeal	<input type="checkbox"/>
6	Any other administrative expenses related to the appeal	<input type="checkbox"/>
7	Any other expenditure related to the appeal	<input type="checkbox"/>
8	The name and address of any commercial fundraiser that conducted or administered part or all of a fundraising appeal on behalf of the association	<input type="checkbox"/>
9	Details of any condition that has been imposed on your organisation in accordance with the Fundraising Act	<input type="checkbox"/>
10	The name of the person from your association who is responsible for overseeing the organisation's involvement in the appeal	<input type="checkbox"/>
11	The name and address of each person who participates in the appeal as a supervisor or manager	<input type="checkbox"/>
12	The name and address of each person who gained a financial advantage from the appeal (other than as a person for whose benefit the appeal was held or other than as a supplier of goods or services) and details of the reason for, and nature and amount of, that financial advantage	<input type="checkbox"/>
13	The name and address of every person, or name or description of every class of people, on whose behalf the appeal was made	<input type="checkbox"/>
14	Copies of the written consent provided by each intended beneficiary of the appeal (if practicable)	<input type="checkbox"/>
15	The dates on which the appeal started and finished	<input type="checkbox"/>



Tool 6: Sample register of members (required)

This is a **sample** register of members for an incorporated association in Victoria. This register should be adapted as necessary for the purposes and requirements of your own organisation, remembering that members have a right to have their details suppressed from registers available for copy or inspection (you may choose to keep one full register, and one register for inspection with suppressed entries redacted or removed).

Member number	Name	Address	Email address (if available)	Date member approved	Members hip class (if any)*	Date membership ended	2023			2022		
							Receipt no.	Amt	Date	Receipt No.	Amt	Date
	(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)					
1	Ima PAYE	21 Smith Street Burwood New South Wales	ipayne@gamil.com	8/1/2022	Ordinary member		2410	\$10	9/1/23	4567	\$15	8/1/22
2	Mei TAN	5 Garden Court Woodend New South Wales	mtan@yahoo.com	9/1/2021	Ordinary member		2413	\$10	9/1/23			

* **Class of membership.** These will vary, depending on your association's constitution, but may include: ordinary member, associate member, life member, honorary member.

General notes:

(i) Member's full name

(ii) Postal or residential address of the member

(iii) Email address last given by the member (if available)

(iv) Date of admission (as noted by committee)

(v) See above for class of membership (will vary according to each association's constitution)

(vi) The date the person stopped being a member. Apart from their name and this date (which must be entered within 14 days), no other information can be kept on the register once membership ends, and

(vii) Membership fees are not required by the AIR Act, but can help to establish whether a member is a 'financial member'. This may have implications for voting at meetings and use of the organisation's facilities



Tool 7: Sample common seal register (optional)

This is a **sample** common seal register for an incorporated association in Victoria. Adapt this register as necessary for the purposes and requirements of your own association.

Date	Document	Authorising signatures	Minute reference	Location
2/1/2023	Contract of purchase of clubhouse at 1 Green Street, Blackfield	Mr J Bloggs, President Ms T Bag, Secretary	Minute No 3 of meeting 1/1/2023	Original document kept in Folder 1.1 in clubhouse office

Tool 8: Sample assets register (optional)

This is a **sample** common seal register for an incorporated association in Victoria. Adapt this register as necessary for the purposes and requirements of your own association.

Date purchased or acquired	Description of assets	Cost or valuation	Asset ID number	Disposed of... ... at (location)	... date/manner	... for (consideration received)
24/4/2020	Desk (wood veneer) with 3-drawer return	\$600.00	1	Club House	2/2/2022 by Sam Slick Auctions Pty Ltd at public auction	\$75.00
22/6/2023	Mac Book Air (13.3 inch 1.8GB)	\$1,388.00	2			

Tool 9: Sample insurance register (optional)

This is a **sample** common seal register for an incorporated association in Victoria. Adapt this register as necessary for the purposes and requirements of your own association.

Policy number	Company/ Broker	Type of policy	Premium \$	Date paid	Period of insurance From: — To:	Type of cover and exclusions	Location of original document
0132561	PMA Insurance	Public Liability	\$680	30/6/21	1/7/21 — 30/6/2023	Excess of \$200 on fusion and exterior for storm damage	'Insurance' file kept in the office



Tool 10: Sample register of bank accounts (optional)

This is a **sample** register of bank accounts for an incorporated association in Victoria. Adapt this as necessary for the purposes and requirements of your own association.

Financial institution	Branch	Account names and number	Signatories	E-banking details	Comments
Mooncorp Building Society	Upper Black Stump (1 Brown Street, Black Stump)	XYZ Club Inc general account BSB-343-01 Acc. 123456	Mr X Ray, Treasurer Ms T Bag, Secretary	User name: XYZINC12938 Password: [known by signatories only]	Overdraft limit of \$10,000 with cheque facilities Delegation of authority to signatories: see minutes of meeting of committee 3 July 2020

Caution: The signatories **must** act in the best interests of the association when signing blank cheques or forms, and should carefully guard passwords for e-banking.

Tool 11: Sample investments register (optional)

This is a **sample** investments register for an incorporated association in Victoria. Adapt this register as necessary for the purposes and requirements of your own association.

Financial Institution: Mooncorp Building Society					Branch: Upper Black Stump		
Date	Principal	Rate	Maturity date	Interest earned	Rec/Chq Number	Instructions/Comments	
	Amount invested	Redeemed					
1/1/23	\$100,000	1/5/23	10%	1/6/17	8%	16534	Redeemed by authority of committee minute No 3/2023

Tool 12: Sample key register (optional)

This is a **sample** key register for an incorporated association in Victoria. Adapt this register as necessary for the purposes and requirements of your own association.

Date	Key number	Description	Person	Signature	Date of return	Comments
1/1/20	E-1	Master key to club exterior doors	Ima Late	<i>Ima</i>		



Tool 13: Checklist for notice of AGM

Order	Description	Done
1	Check your organisation's rules, resolutions and policies for specific requirements, such as how much notice to give, what information should be included, and who it should be given to	<input type="checkbox"/>
2	Content of notice:	
	• as its heading, the word 'notice of annual general meeting'	<input type="checkbox"/>
	• name and registration number of the organisation	<input type="checkbox"/>
	• date, time and place of meeting	<input type="checkbox"/>
	• nature of business to be discussed at meeting, including for example:	<input type="checkbox"/>
	– confirming minutes of the previous annual general meeting and any other general meetings held since then	<input type="checkbox"/>
	– receiving the financial statement and other reports on activities of the organisation in the last financial year	<input type="checkbox"/>
	– electing the members of the committee	<input type="checkbox"/>
	– if applicable, receiving the reviewer's/auditor's report on the financial affairs of the association for the last financial year	<input type="checkbox"/>
	– if applicable, presenting the reviewed/audited financial report to the meeting for adoption	<input type="checkbox"/>
	– if applicable, appointing a reviewer / auditor	<input type="checkbox"/>
	• date of notice	<input type="checkbox"/>
	• directions to the meeting venue and disability access (optional)	<input type="checkbox"/>
	• secretary's contact details (optional)	<input type="checkbox"/>
	• notice 'authorised by xx' (optional)	<input type="checkbox"/>
3	If relevant, the notice of annual general meeting may also include:	
	• the wording of motions or resolutions to be considered at meeting (if a special resolution is proposed, include the exact wording of the special resolution)	<input type="checkbox"/>



Order	Description	Done
	<ul style="list-style-type: none"> disclosure of interest of any committee member in the business to be dealt with at meeting (for example, a conflict of interest – see part 3 of this guide: Secretary's Legal Role, Powers and Duties) 	<input type="checkbox"/>
	<ul style="list-style-type: none"> if the rules allow proxy voting, an explanation of how / when to appoint a proxy, and attach a proxy form 	<input type="checkbox"/>
	<ul style="list-style-type: none"> if the rules allow direct voting, an explanation of how / when to vote directly before the meeting, and attach a direct voting form 	<input type="checkbox"/>
4	The notice should also attach background information and documents, such as:	
	<ul style="list-style-type: none"> minutes of the last annual general meeting (and any other general meetings held since then, if required) 	<input type="checkbox"/>
	<ul style="list-style-type: none"> reports from staff, committees or volunteers 	<input type="checkbox"/>
	<ul style="list-style-type: none"> financial reports (for example, the financial statement) 	<input type="checkbox"/>
	<ul style="list-style-type: none"> where appropriate, relevant background correspondence 	<input type="checkbox"/>
5	Time for giving notice	
	<ul style="list-style-type: none"> annual general meeting must be held within five months after the end of your organisation's financial year 	<input type="checkbox"/>
	<ul style="list-style-type: none"> check your organisation's rules, resolutions and policies for specific requirements (for example, 14 days before the meeting date). Note rules on how days are calculated 	<input type="checkbox"/>
	<ul style="list-style-type: none"> if a special resolution is proposed, you must give 21 days' notice before the meeting date (section 64(2) of the AIR Act) 	<input type="checkbox"/>
6	How to give notice	
	<ul style="list-style-type: none"> can be by email or post – check your organisation's rules, resolutions and policies for specific requirements (for example, notice in local paper) 	<input type="checkbox"/>
7	Who to give notice to	
	<ul style="list-style-type: none"> usually all members of the association (check the register of members) 	<input type="checkbox"/>
	<ul style="list-style-type: none"> in special circumstances, others (such as Consumer Affairs Victoria and/or auditor) 	<input type="checkbox"/>

Tool 14: Sample notice for AGM

Note

This notice of annual general meeting is for organisations that have their financial accounts audited by an independent auditor. Not all incorporated associations are required to have their accounts audited. For more information see [part 8 of this guide: Reporting to Consumer Affairs Victoria](#).

XYZ Club Inc (Registration No A00003333)

Notice of Annual General Meeting

Notice is given that the Annual General Meeting of the XYZ Club Inc will be held on *[date]*, at *[time]* at *[address]*.

The ordinary business of the meeting will be:

1. To confirm the minutes of the previous annual general meeting and of any general meeting held since that meeting,
2. To receive from the Committee reports upon the transactions of the Association during the last preceding financial year,
3. To elect officers of the Association and the ordinary members of the committee, and
4. To receive and consider the financial statement submitted by the Association to members in accordance with section 100(1) of the *Associations Incorporation Reform Act 2012 (Vic)*.

The special business of the meeting will be:

5. To receive and consider the Auditor's Report and Audited Accounts on the financial affairs of the association for the last financial year, and
6. To consider any other business.

I.N. Order, Secretary, *[date of notice]*

by authority of the Committee

Proxies

A member entitled to attend and vote at the annual general meeting may appoint a person to attend and vote at the meeting as the member's proxy. A proxy must be a member of XYZ Club Inc.

A proxy may be appointed by returning the completed proxy form (attached) to the secretary at the club's registered office at *[address]*, at least 24 hours before the start of the meeting.

Inquiries

All inquiries should be directed to the Secretary, Ms I.N. Order, XYZ Club Inc, 123 Frank Street, Motown, telephone (03) 8333 0000, fax (03) 3300 3300, email in.order@xyz.org.au

Attached

- Minutes of Previous Annual General Meeting held on *[date]*
- Chairperson's Report
- Treasurer's Report
- Auditor's Report and Accounts
- Audited Financial Statement
- List of Nominees for Positions on the Committee
- Proxy Form

Tool 15: Sample agenda for AGM (with explanatory notes for the secretary)

Note

The agenda and notes here relate to formal requirements and procedures for an annual general meeting. However, for some organisations, the annual general meeting is also a time to celebrate the organisation's achievements, and may include, for example:

- a guest speaker
- awards for volunteers, or
- audio visual presentation of the organisation's activities

**Annual General Meeting to be held in the XYZ clubhouse, at 123 Frank Street, Motown,
1 November 2022 at 7.00pm**

Agenda summary

- Chairperson's welcome
- Apologies & attendance
- Minutes of previous meeting
- Report from committee on transactions in previous year
- Election of committee members
- Annual Financial Statement (submitted to members under either section 94(1), 97(1) or 100(1) of the *Associations Incorporation Reform Act 2012 (Vic)*)
- Special business
- General business
- Close

1. Business

The secretary is responsible for either taking, or ensuring that another person (for example, an employee of the organisation) takes, accurate minutes of what is discussed and decided on at the meeting.

2. Chairperson's welcome

The chairperson, who normally acts as chair of the meeting, calls the meeting to order and welcomes any new members and guests.

3. Apologies and attendance

The chairperson asks the secretary whether any apologies (that is, the name of any person who is unable to attend and has asked that this be noted) have been received, then asks if any member has an apology to record. These apologies are recorded in the minutes. The secretary also records the names of the people present, or circulates a book for them to record their own names (ask them to print their name clearly).

4. Minutes of the previous meeting

The secretary should have already prepared the minutes of the previous meeting. If the minutes have been distributed with the notice of meeting, the chairperson may ask the meeting if there is any



objection to taking the minutes as read. Otherwise the secretary may read the minutes to the meeting.

The meeting should confirm that the minutes are an accurate record of the previous meeting. It is usual for a member who was at the previous meeting to propose this motion and for another to 'second' the motion. The motion is simply, *'I move that the minutes be confirmed as a true and accurate record of the last meeting'*. All present may vote on the resolution, whether or not they were present at the last meeting. However, if the minutes are not correct in some aspect, a member may propose a motion to correct them. The members may vote on whether the minutes should be changed. This procedure is to agree on what was said at the previous meeting; not to re-open the debate or reverse previous decisions. The chairperson may sign a copy of the minutes (with any changes marked) and these are kept in the organisation's records.

5. Report from committee on transactions in the previous year

The committee (or office bearers such as the chairperson and/or the treasurer) present reports on the organisation's activities and transactions in the previous financial year. For example, the chairperson may report on matters that the committee has dealt with in the previous year, as well as the organisation's significant achievements or milestones.

The treasurer's report usually includes details of receipts and expenditure for the previous financial year. This report may also show a comparison against a budget to date and other comments. If the financial affairs of the organisation are substantial, the treasurer should arrange for the report to be printed and distributed at the meeting (or, preferably, the report will already have been distributed with the notice of annual general meeting). The treasurer moves the adoption of the report. Then the members can discuss the report.

In large organisations with complex financial transactions, the detailed study of the budget and other financial matters has usually been delegated (by the committee) to a finance sub-committee. The treasurer will have presented a summary report to that sub-committee, and the report from that sub-committee is presented to the annual general meeting. The treasurer and members of the sub-committee should be prepared to answer questions at the meeting.

6. Election of committee members

If nominations for positions on the committee have been received by the secretary before the meeting, the chairperson (or secretary) reads the nominations aloud. If there are fewer nominations than there are positions available on the committee, the chairperson may call for any additional nominations at the meeting.

If there is only one candidate for a position, the chairperson will state that the candidate has been elected (without a vote being taken). However if there are more nominations than there are positions available on the committee, or if there is any opposition to a nomination (or if the organisation's rules require), a ballot is taken (usually, a secret ballot). For further information about ballots and other voting methods, see below Tool 16: Table of voting methods.

7. Annual Financial Statement (submitted to members under either section 94(1), 97(1) or 100(1) of the Associations Incorporation Reform Act 2012 (Vic))

The secretary will have already prepared the financial statement of the organisation containing the details required under either section 94(1), 97(1) or 100(1) of the *Associations Incorporation Reform Act 2012* (Vic) (**AIR Act**) with the treasurer (and/or others with financial reporting skills). The section of the AIR Act applicable to the organisation will depend on whether it is a 'tier one', 'tier two' or 'tier three' association, based on their total annual revenue. For more information about which tier an organisation falls into, see [Part 8: Reporting to Consumer Affairs Victoria in this Guide](#).

If the organisation is a 'tier one' association, its committee must submit the financial statement for that financial year to members at the first AGM. This statement must be a true and fair view of the financial position and performance of the association. There must also be a certificate, signed by two committee members, certifying this.

If the financial statement has been distributed with the notice of meeting, the chairperson may ask the meeting if there is any objection to taking the statement as read. Otherwise the secretary may distribute copies of the statement to the meeting, allow time for reading, and then the treasurer will usually summarise its key points.



It is good practice for the meeting to pass a resolution approving the statement as an accurate record of the organisation's financial position in its last financial year (and authorising the secretary to lodge the organisation's annual statement with Consumer Affairs Victoria after the meeting). It is common for a member of the committee to propose this motion and for another to second the motion. The motion can be: 'I move that the statement be confirmed as a true and fair record of the financial position of the incorporated association during and at the end of its last financial year, and that the secretary submit the statement to Consumer Affairs Victoria within one month of the date of this meeting.' Then a vote may be taken. However, if a member has any concerns about the statement, or considers that its details are not correct in some aspect, a member may propose a motion to correct them. The members may vote on whether the statement should be changed.

The chairperson (or other committee member) must sign a copy of the statement considered by members at the meeting (with any changes marked). The AIR Act requires a member of the committee (who attended the annual general meeting) to certify that the statement was presented to members. The organisations must keep this certification, and the financial statement, for 7 years.

8. Special business

Special business consists of matters placed on the agenda by the committee or the secretary. Special business may also be a proposed special resolution or some other important matter to be discussed. Note: there may be particular procedures for giving members notice of special business under your organisation's rules, and there are special notice requirements under the AIR Act for some matters (such as proposed special resolutions and resolutions to remove an auditor).

9. General business

At this stage of the meeting, any member may raise a question or an issue which has not yet been dealt with. These are usually minor matters, such as setting the date of the next meeting (which may be a regular yearly date, such as the first Monday in May, or another agreed date) or votes of congratulations, appreciation and/or farewells.

However, if a new resolution is proposed by a member, it should not be considered at that meeting because proper notice has not been given to all members. If additional matters of important business are raised at the meeting, it is best for the organisation to convene a further meeting (with sufficient notice to members) to consider the issues properly and vote on any resolutions. This is to avoid a situation where a member who didn't attend the meeting complains that they would have attended (and voted on the resolution) if they were aware it would be proposed.

Members who wish to raise complex issues should advise the chairperson of their intentions before the meeting, and provide a written copy of the motion they intend to move. (The rules of most organisations require this).

10. Close

It is usual for the chairperson to close the meeting and thank members for attending. The chairperson may invite everyone for refreshments after the close of the meeting.

Tool 16: Table of voting methods

This table sets out a number of methods for voting. However, the most common methods are:

- voting by show of hands
- voting by voice, and
- voting by count (especially for important matters and/or to keep votes secret ('secret ballot'))

Method	How to conduct vote	How to count votes	Comments
Voting by show of hands	Chairperson requests those voting in favour of the motion to raise a hand. The procedure is repeated for those voting against the motion.	<p>Usually, the chairperson (perhaps with help of secretary) counts the hands. The chairperson states whether or not the motion has been passed. Secretary records the result in the minutes.</p> <p>If the outcome of the vote is clear, it is unnecessary to count the hands. However, it is good practice to count the hands if the result of the vote will be close, and/or the result is likely to be challenged. It may also be necessary to count the hands if:</p> <ul style="list-style-type: none"> • the organisation's rules require a specific percentage majority for a motion to be carried, or • an issue must be determined by a certain minimum proportion of the members (for example, a special resolution) 	<p>Voting by show of hands is difficult to administer if there are a large number of people voting at the meeting. In these circumstances, the chairperson may ask for help (usually from the secretary) to count the votes. The chairperson may also appoint 'tellers' (usually one from each voting 'side' or perspective) and use those people (independently of each other) to determine the count on each vote. The tellers will help the chairperson ensure that no person raises two hands or votes for both 'sides' of the motion.</p> <p>If necessary (that is, if a record is required), the chairperson can make a list of the names of people voting.</p>
Voting by standing	A similar method to voting by show of hands. The members stand for the motion that they favour.	Usually, the chairperson (perhaps with help of secretary) counts the people standing. The Chairperson states whether or not the motion has been passed. The secretary records the result in the minutes.	<p>Voting by standing can make the counting process easier and reduces the possibility of a vote being counted twice.</p> <p>If necessary, the chairperson can make a list of the names of people voting.</p>



Method	How to conduct vote	How to count votes	Comments
Voting by voice (or by applause)	<p>The Chairperson says, 'All those in favour of the motion say 'Aye'' (or 'Yes'). After noting the volume of sound, chairperson continues, 'Those against say 'No!'.</p> <p>Voting by applause is similar, except that members clap instead of saying 'Aye' or 'No.'</p> <p>Voting by applause is usually for a vote of thanks.</p>	<p>The chairperson determines which of the 'Ayes' or the 'Nos' (or claps) made the more noise and states the conclusion by saying, 'The 'Ayes' (or the 'Nos') have it'. The secretary records the result in the minutes.</p>	<p>A problem with voting by voice or applause is a lack of documentation of individual votes. A written record of votes is useful if the decision is later disputed or if (as in the case of a special resolution) a three-quarters majority is required.</p> <p>So, if the particular matter to be voted on is contentious or if a special resolution is required, it is better to conduct a vote by show of hands, by standing, or better still, by division or a count (see below).</p>
Voting by division	<p>The chairperson places the motion before the meeting, saying 'All those in favour, the 'Ayes', will pass to the right of the chairperson' those against, the 'No's', will pass to the left of the chairperson.'</p>	<p>To record votes, members stand and walk past one side or other of the chairperson, depending upon their vote. As each person passes, the chairperson (or secretary) records their name.</p>	<p>Voting by division takes longer than the methods discussed above. However, it has the advantage of being accurate and straightforward to administer, as well as involving a more objective written record.</p>
Voting by count	<p>The Secretary prepares voting paper containing all relevant details of the matter being voted on (for example, if the count is to change the rules of the organisation, the text of the proposed special resolution). The Secretary distributes the papers to all the people entitled to vote. (If direct voting is allowed, voting forms will be distributed to members before the meeting takes place, eg. with notice of meeting.) Secretary keeps a written record of:</p> <ul style="list-style-type: none"> names of the people to whom they distributed the voting papers, and how many voting papers were distributed to each person <p>(This is because, for example, a proxy holder may vote on behalf of several people.)</p> <p>The Chairperson explains to those voting the manner</p>	<p>The chairperson checks that all voting papers distributed have now been collected.</p> <p>Tellers and scrutineers count votes and inform the chairperson of the result (usually in writing) as soon as it has been determined. Chairperson announces the result to the meeting.</p> <p>If a large number of people are voting (and therefore the counting could take some time), the chairperson can usually adjourn the business to after voting papers have been collected and checked.</p>	<p>Voting by count takes longer to administer than other methods, but the precautions that form part of the procedure are necessary to ensure a correct count.</p> <p>The advantages of count voting are that:</p> <ul style="list-style-type: none"> the votes are made in writing all people entitled to vote have an opportunity to do so, (because, if the rules allow for proxies and/or direct voting, proxies are issued additional ballot voting papers and 'direct votes' are counted), and members with more than one vote each (that is, differential voting rights) have a say in proportion to their voting entitlement (which may help prevent an overbearing



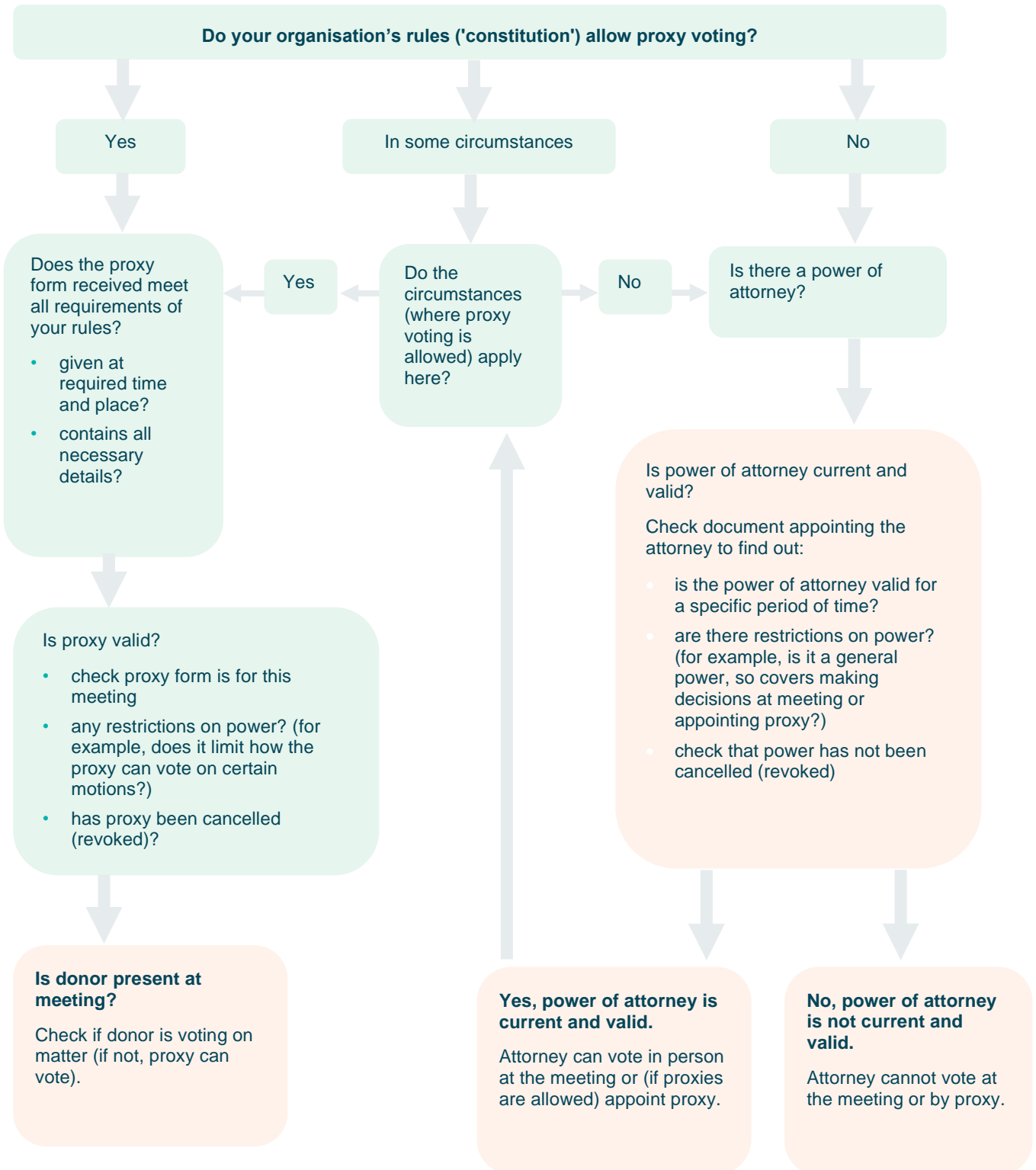
Method	How to conduct vote	How to count votes	Comments
	<p>of voting required by the voting paper (for example, the count may call for a 'Yes' or 'No' vote).</p> <p>People who are entitled to vote record their votes in writing on the voting paper. They usually also record their name on the paper.</p> <p>Tellers (people who count the votes) collect the papers. Scrutineers (people who examine the papers) generally supervise the process. (Tellers and scrutineers can be the same people. They may be appointed by resolution at the meeting or by the secretary.)</p> <p>If any votes are doubtful the scrutineer consults with the chairperson, who makes a ruling.</p>		or noisy minority from influencing the vote).
Voting by ballot (for election of committee)	<p>The Secretary prepares ballot paper containing all relevant details of the matter being voted on (for example, the names of all nominated candidates).</p> <p>As with a count, the secretary distributes the papers to all the people entitled to vote and keeps a written record of:</p> <ul style="list-style-type: none"> names of the people to whom they distributed the ballot papers, and how many ballot papers were distributed to each person <p>The Chairperson explains to those voting the manner of voting required by the ballot paper (for example, the ballot may require people to indicate their preference by placing the number 1 against their first preference and placing the number 2 against their second preference).</p> <p>As with a count, tellers (people who count the votes) collect the papers, and scrutineers (people who examine the papers)</p>	<p>The Chairperson checks that all ballot papers distributed have now been collected.</p> <p>Tellers and scrutineers collect and count votes and inform chairperson of the result (usually in writing) as soon as it has been determined. The chairperson announces the result to the meeting.</p> <p>If a large number of people are voting (and therefore the counting could take some time), the chairperson can usually adjourn the business until after ballot papers have been collected and checked.</p>	<p>The benefits of a ballot are similar to those of a count (see above).</p> <p>Ballot papers usually do not record the name of the voter (in which case it is a 'secret ballot'). The secrecy of the process is designed to avoid voters being influenced by other people's votes or feeling pressured to vote in a particular way.</p>



Method	How to conduct vote	How to count votes	Comments
	<p>generally supervise the process.</p> <p>If any votes are doubtful the scrutineer consults with the chairperson, who makes a ruling.</p>		



Tool 17: Flowchart for reviewing proxies



Tool 18: Sample wording for allowing direct voting in your rules

Below is a sample clause which could be included in an organisation's rules to allow 'direct voting' by members of the organisation. Read the wording carefully. Consider whether this procedure is suitable for your organisation.

Note that the wording gives the committee of management a *discretion* to allow direct voting at a general meeting – in other words, members do not have an *automatic* right to direct voting at every meeting.

You may like this wording, or you may need to adapt the clause or use different wording altogether. This will depend on your organisation's needs. If necessary, seek legal advice about changes to your rules.

'The committee of management may determine that at any general meeting of the Association, a member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution.'

If the committee of management determines that votes may be cast by direct vote, the committee of management may specify the form, method and manner of casting a direct vote and the time by which a direct vote must be received by the Association in order for the vote to be valid.'



Tool 19: Checklist for content of minutes

It is good practice to include the following in the minutes of a meeting:

Order	Description	Done
1	Name of your organisation and heading, for example, 'Annual General Meeting' (or 'Special General Meeting')	<input type="checkbox"/>
2	Date, place and opening time	<input type="checkbox"/>
3	Name of chairperson	<input type="checkbox"/>
4	Names of members present (and their status if office holders) and other people present, such as observers (or reference to separate attendance register)	<input type="checkbox"/>
5	Names of non-members who are attending (if any)	<input type="checkbox"/>
6	Names of those people who have sent apologies (for not attending)	<input type="checkbox"/>
7	Confirmation of previous meeting's minutes	<input type="checkbox"/>
8	Record of motions, resolutions and amendments	<input type="checkbox"/>
9	Names of the people who move and second motions	<input type="checkbox"/>
10	Short summaries of the debates on motions	<input type="checkbox"/>
11	The method of voting on motions etc (for example, show of hands, count) and the numbers of votes for, against and abstaining	<input type="checkbox"/>
12	The details of any proxy voting or direct voting	<input type="checkbox"/>
13	Results of voting (for example, passed, rejected or adjourned, etc)	<input type="checkbox"/>
14	Titles (and any relevant details) of documents or reports tabled	<input type="checkbox"/>
15	(If relevant) cross references to previous minutes or policies of the organisation	<input type="checkbox"/>
16	Committee minutes should approve or ratify all the organisation's expenditure	<input type="checkbox"/>
17	Details of next meeting	<input type="checkbox"/>
18	Closing time	<input type="checkbox"/>
19	List of tasks arising from the minutes and name of person responsible for each	<input type="checkbox"/>
20	After minutes have been confirmed at the next meeting, signature of chairperson	<input type="checkbox"/>



Tool 20: Conventions for drafting minutes

The table below is in two parts. The first deals with drafting minutes of discussion at meetings, the second deals with drafting motions discussed at meetings.

Drafting minutes of discussions in meetings

Convention	Explanation	Example
Use simple sentences and simple words	This helps people understand what was discussed (especially if they were not at the meeting).	<p>Do not write:</p> <p>'Mr UB Sporty extrapolated that this fine sporting institution's solar matt 500 water heating appliance with the white duco slimline control panel was performing consistently below its engineered benchmarks.'</p> <p>Do write:</p> <p>'Mr UB Sporty reported that the club's hot water system needed urgent repairs.'</p>
Use active, rather than passive, voice	In the 'active' voice, the subject of the sentence performs the action stated by the verb. In the 'passive' voice, the subject of the sentence is acted upon. Generally, the passive voice can be more difficult for a reader to understand.	<p>Do not write (passive voice):</p> <p>'A computer was used by the secretary to write these minutes.'</p> <p>Do write (active voice):</p> <p>'The secretary used a computer to write the minutes.'</p>
	<p>However, it is acceptable to use the passive voice if:</p> <ul style="list-style-type: none"> • you want to soften an unpleasant message • you don't know who did a particular thing recorded in the minutes, or • you want to shift the reader's attention away from the person who did something to other information 	<p>Do write (passive voice) in some circumstances:</p> <p>'Complaints were put in the suggestion box.'</p> <p>(That is, you do not want to specify who actually made the complaints.)</p>
Use only one tense	It is usually best to use the past tense in minutes.	<p>Do write:</p> <ul style="list-style-type: none"> • 'Ms L Little reported that she had' • 'The committee considered that the hot water system was'
Avoid terms such as 'he said' or 'she stated' unless you quote their actual words	This is to avoid 'putting words into a person's mouth.'	<p>Do not write:</p> <p>'Mr S Fry said: 'I got a letter from the Council about this. I reckon the Council is being stupid.'</p> <p>Do write:</p> <p>'Mr S Fry reported that he had received a letter from the Council. He spoke critically of the Council's position on this issue.'</p>



Convention	Explanation	Example
Avoid personal descriptions or attributes	This is to make sure that the minutes are as 'objective' or 'impartial' as possible – the minutes should not include the minute-writer's own personal opinions or reflections.	Do not write: <ul style="list-style-type: none"> 'The chairman announced <i>happily</i>...' 'The treasurer <i>meanly</i> said...' 'The club representative <i>slammed</i> the report.'
Be very careful: <ul style="list-style-type: none"> not to defame anyone when recording matters that include confidential details 	See discussion of 'Defamation' in part 6 of this guide: Special General Meetings .	Do not write: <p>'Ms L Little reported that the builder engaged to renovate the club house has a history of stealing from organisations and said he was a disgrace to his profession.'</p> Do write: <p>'Concern was expressed about the suitability of the builder for the task of renovating the club house.'</p>

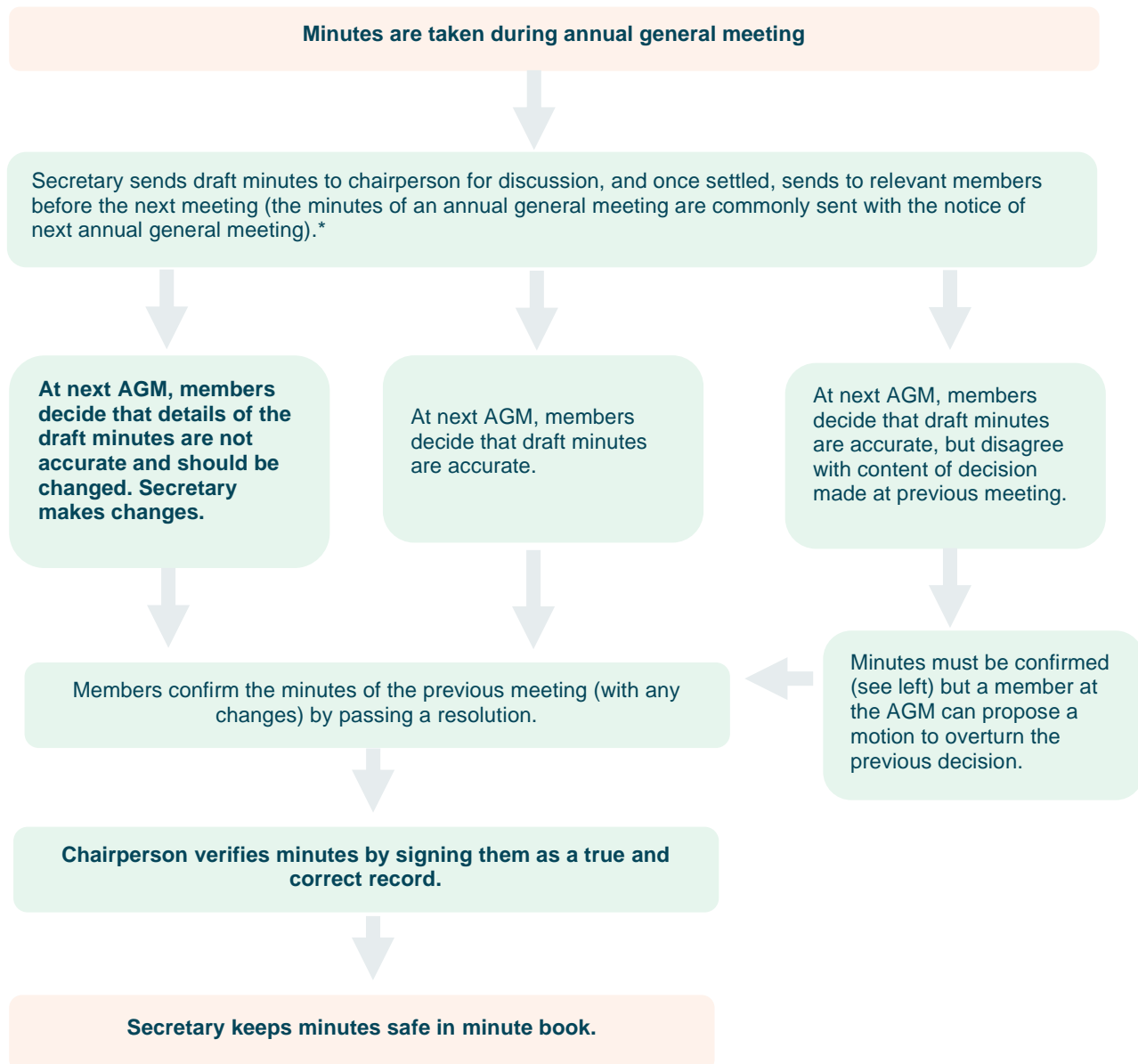
Drafting motions

Method	Explanation	Example
Commence the motion with the word 'that'	This is so all resolutions of the meeting are in the same format. Before the word 'that', imagine inserting the words, 'The meeting passed a resolution...'	Do write: <p>'<i>That</i> the treasurer's recommendation be adopted.'</p>
Use the verb 'be' rather than the word 'is'	This is to be grammatically correct when the motion commences with the word 'that' (see above).	Do not write: <p>'That the newspaper release <i>is</i> adopted.'</p> Do write: <p>'That the newspaper release <i>be</i> adopted.'</p>
Express the motion in the positive	This means that a 'yes' vote from the members results in the proposal being approved or supported.	Do not write: <p>'That the doors <i>be not shut</i> during the meeting.'</p> Do write: <p>'That the doors <i>be open</i> during the meeting.'</p>
If you cannot express the motion in one sentence, split it up into carefully written parts	Carefully construct a composite motion (one with a number of separate parts) so that the chairperson can split it up to enable the meeting to deal with each of its parts separately.	Do not write: <p>'That in addition to any other motions proposed this meeting resolve to thank the members of the Town Hall including Ms T Bag for providing the refreshments and Mr B Room for making the accommodation available and instruct the secretary to send letters of thanks to Ms T Bag and Mr B Room with a copy to Mr S Visor.'</p>



Method	Explanation	Example
		<p>Do write:</p> <p>'That the meeting register its appreciation for Town Hall members generally, and specifically ask the secretary to:</p> <ul style="list-style-type: none">(a) send a letter of thanks to:<ul style="list-style-type: none">(i) Ms T Bag for providing the refreshments, and(ii) Mr B Room for making the accommodation available, and(b) send a copy of these letters to Mr S Visor.'

Tool 21: Flowchart for confirming and verifying minutes of AGM



***Note:** If minutes were not sent out before the next meeting, allow time for people to read them or the secretary should read them aloud at the meeting.



Tool 22: Checklist for notice of SGM

Order	Description	Done
1	Check your organisation's rules, resolutions and policies for specific requirements, such as how much notice to give, what information should be included, and who it should be given to	<input type="checkbox"/>
2	Content of notice:	
	• as its heading, the word 'notice'	<input type="checkbox"/>
	• name and registration number of the organisation	<input type="checkbox"/>
	• type of meeting (that is, a general meeting of the organisation's members)	<input type="checkbox"/>
	• date, time and place of meeting	<input type="checkbox"/>
	• nature of business to be discussed at meeting	<input type="checkbox"/>
	• any business that a member has requested (to the secretary in writing – including by fax or email) to be discussed at meeting (a notice of motion)	<input type="checkbox"/>
	• date of notice	<input type="checkbox"/>
	• directions to the meeting venue and disability access (optional)	<input type="checkbox"/>
	• the secretary's contact details (optional)	<input type="checkbox"/>
	• notice 'authorised by xx' (optional)	<input type="checkbox"/>
3	If relevant, the notice of general meeting may also include:	
	• the text of motions or resolutions to be considered at meeting (if a special resolution is proposed, include the exact wording of the resolution)	<input type="checkbox"/>
	• any comments by the committee on the business to be dealt with at the meeting	<input type="checkbox"/>
	• disclosure of the interest of any management committee member in the business to be dealt with at meeting (for example, a potential conflict of interest – see part 3 of this guide: Secretary's Legal Role, Powers and Duties)	<input type="checkbox"/>
	• if the rules allow proxy voting, an explanation of how / when to appoint a proxy, and attach a proxy form	<input type="checkbox"/>
	• if the rules allow direct voting, an explanation of how / when to vote directly before the meeting, and attach a direct voting form	<input type="checkbox"/>
4	The notice should also attach background information and documents (as appropriate), such as:	



Order	Description	Done
	<ul style="list-style-type: none"> minutes of the last general meeting (if relevant) 	<input type="checkbox"/>
	<ul style="list-style-type: none"> reports from committee of management, staff or volunteers 	<input type="checkbox"/>
	<ul style="list-style-type: none"> financial reports 	<input type="checkbox"/>
	<ul style="list-style-type: none"> where appropriate, relevant background correspondence 	<input type="checkbox"/>
5	Time for giving notice	
	<ul style="list-style-type: none"> check your organisation's rules, resolutions and policies for specific requirements (for example, 14 days before the meeting date). Note rules on how days are calculated 	<input type="checkbox"/>
	<ul style="list-style-type: none"> if a special resolution is proposed, you must give 21 days' notice before the meeting date (section 64(2) of the AIR Act) 	<input type="checkbox"/>
6	How to give notice	
	<ul style="list-style-type: none"> can be by email or post – check your organisation's rules, resolutions and policies for specific requirements (for example, notice in local paper) 	<input type="checkbox"/>
7	Who to give notice to	
	<ul style="list-style-type: none"> usually all members of the association (check the register of members) 	<input type="checkbox"/>
	<ul style="list-style-type: none"> in special circumstances, others (such as Consumer Affairs Victoria and/or auditor) 	<input type="checkbox"/>



Tool 23: Sample notice for SGM

Special general meetings are referred to in this Part as all general meetings other than the annual general meeting. A special general meeting is usually convened for a particular purpose – in the example below, to consider and vote on a special resolution to change the organisation's name.

XYZ Club Inc (Registration No A00003333)

Notice of Special General Meeting

Notice is given that a Special General Meeting of the members of XYZ Club Inc will be held on *[date]*, at *[time]* at *[address]*.

The meeting will be for the purpose of considering and, if thought appropriate, passing the following special resolution:

That the name of XYZ CLUB INC. be changed to ZYX CLUB INC.

Note: This is proposed as a special resolution and must be passed by three quarters of the members who are present at the meeting and entitled to vote (in person or by proxy) on the resolution, and who do vote, in accordance with section 64 of the *Associations Incorporation Reform Act 2012 (Vic)*.

Comment by Management Committee: The Management Committee unanimously believes that a change of the club's name is in the best interests of all members. This is to prevent the club from being mistaken for another well-known club in the eyes of the public.

T. Bag, Secretary, *[date of notice]*
by authority of the Management Committee

Proxies

A member entitled to attend and vote at the special general meeting may appoint a person to attend and vote at the meeting as the member's proxy. A proxy must be a member of XYZ Club Inc.

A proxy may be appointed by returning the proxy form (attached) to the secretary at the club's registered office at *[address]*, at least 24 hours before the commencement of the meeting.

Inquiries

All inquiries should be directed to the Secretary, Ms T Bag, XYZ Club Inc, 123 Frank Street, Motown, telephone (03) 3333 0000, fax (03) 3300 3300, email t.bag@xyz.org.au

Attached

Proxy Form

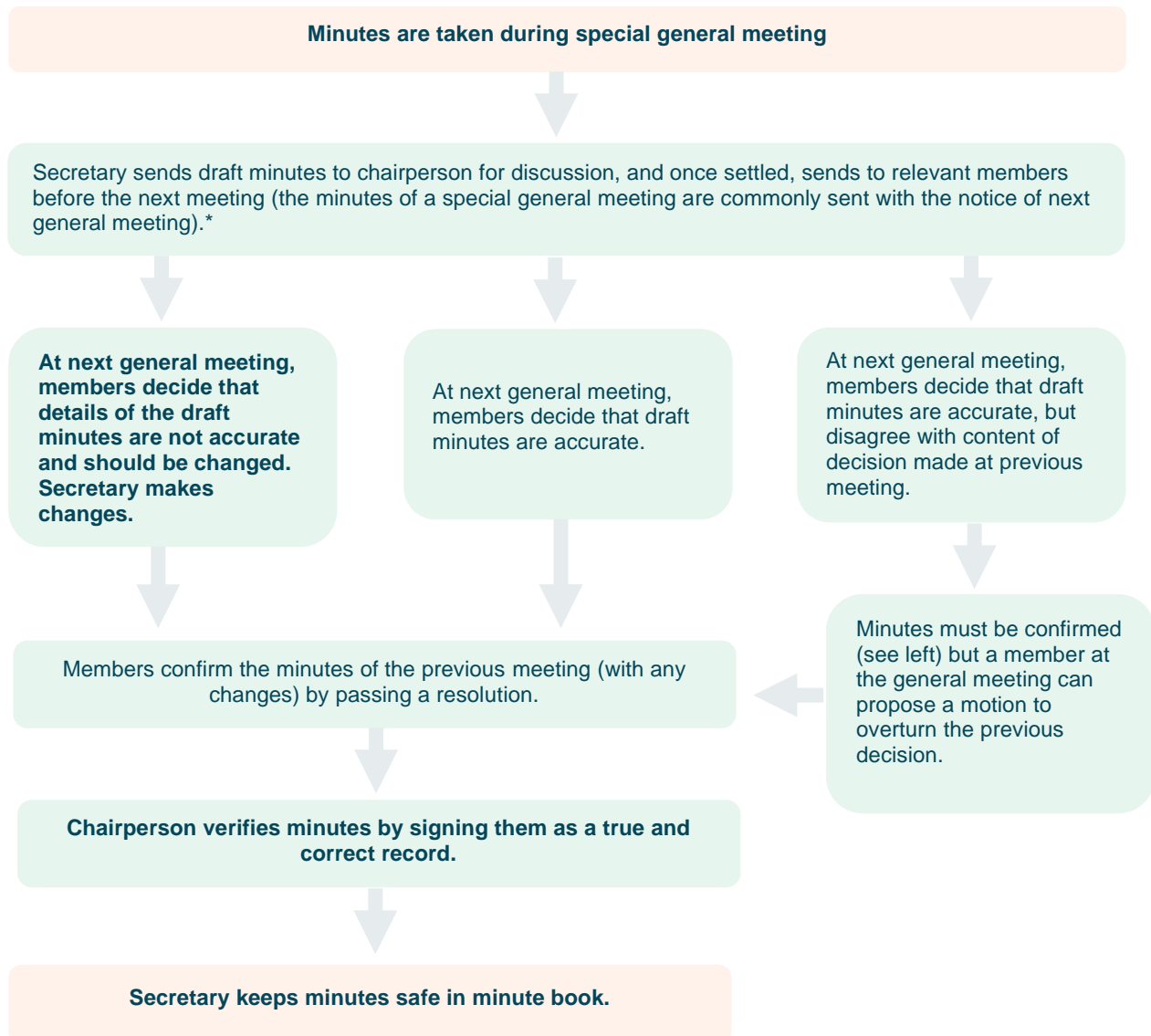
Tool 24: Table of voting methods for SGM

There are a number of methods for voting at an SGM. The most common methods are:

- voting by show of hands
- voting by voice, and
- voting by count (especially for important matters or to keep votes secret ('secret ballot'))

These methods are the same set out in [Tool 16](#).

Tool 25: Flowchart for confirming and verifying minutes in SGMs



***Note:** If minutes were not sent out before the next meeting, allow time for people to read them or the secretary should read them aloud at the meeting.



Tool 26: Checklist for notice of committee meeting

Use this checklist to prepare a notice of meeting of the committee or other governing body of the organisation (sometimes called the 'board').

Note: Committee meetings are usually less formal than general meetings and the committee may be able to make its own notice procedures under the organisation's rules (for example, notices may be allowed to be provided by email).

Order	Description	Done
1	Check your organisation's rules, resolutions and policies for specific requirements, such as how much notice to give, what information should be included, and who it should be given to	<input type="checkbox"/>
2	Content of notice:	
	• the name and registration number of the organisation	<input type="checkbox"/>
	• type of meeting (that is, committee meeting)	<input type="checkbox"/>
	• date, time and place of meeting	<input type="checkbox"/>
	• if necessary, nature of business to be discussed at meeting (for example, if it is a 'special' meeting, why meeting is being held)	<input type="checkbox"/>
	• date of notice	<input type="checkbox"/>
	• directions to the meeting venue and disability access (optional)	<input type="checkbox"/>
	• secretary's contact details (optional)	<input type="checkbox"/>
	• notice 'authorised by xx' (optional)	<input type="checkbox"/>
3	If relevant, the notice may also include:	
	• the wording of motions or resolutions to be considered at meeting	<input type="checkbox"/>
	• disclosure of the interest of any committee member in the business to be dealt with at meeting (for example, a conflict of interest – see part 3 of this guide: Secretary's Legal Role, Powers and Duties)	<input type="checkbox"/>
4	The notice should also attach background information and documents, such as:	
	• minutes of the last committee meeting	<input type="checkbox"/>
	• reports from staff, subcommittees or volunteers	<input type="checkbox"/>
	• financial reports	<input type="checkbox"/>



Order	Description	Done
5	Time for giving notice	
	<ul style="list-style-type: none"> check your organisation's rules, resolutions and policies for specific requirements (for example, if the meeting is being held to discipline a member of the organisation). Under the new model rules 7 days' notice is required for all committee meetings other than urgent committee meetings 	<input type="checkbox"/>
	<ul style="list-style-type: none"> if none, the time of service must be 'reasonable' in the circumstances – good practice is at least one week 	<input type="checkbox"/>
6	How to give notice	
	<ul style="list-style-type: none"> check your organisation's rules, resolutions and policies for specific requirements, including use of technology. Note the AIR Act permits the use of technology at committee meetings 	<input type="checkbox"/>
7	Who to give notice to	
	<ul style="list-style-type: none"> all committee members 	<input type="checkbox"/>
	<ul style="list-style-type: none"> usually also the Chief Executive Officer and secretary (if they are not also committee members themselves) 	<input type="checkbox"/>
	<ul style="list-style-type: none"> in special circumstances, others (for example, any invited guests, a member who is to be disciplined) 	<input type="checkbox"/>

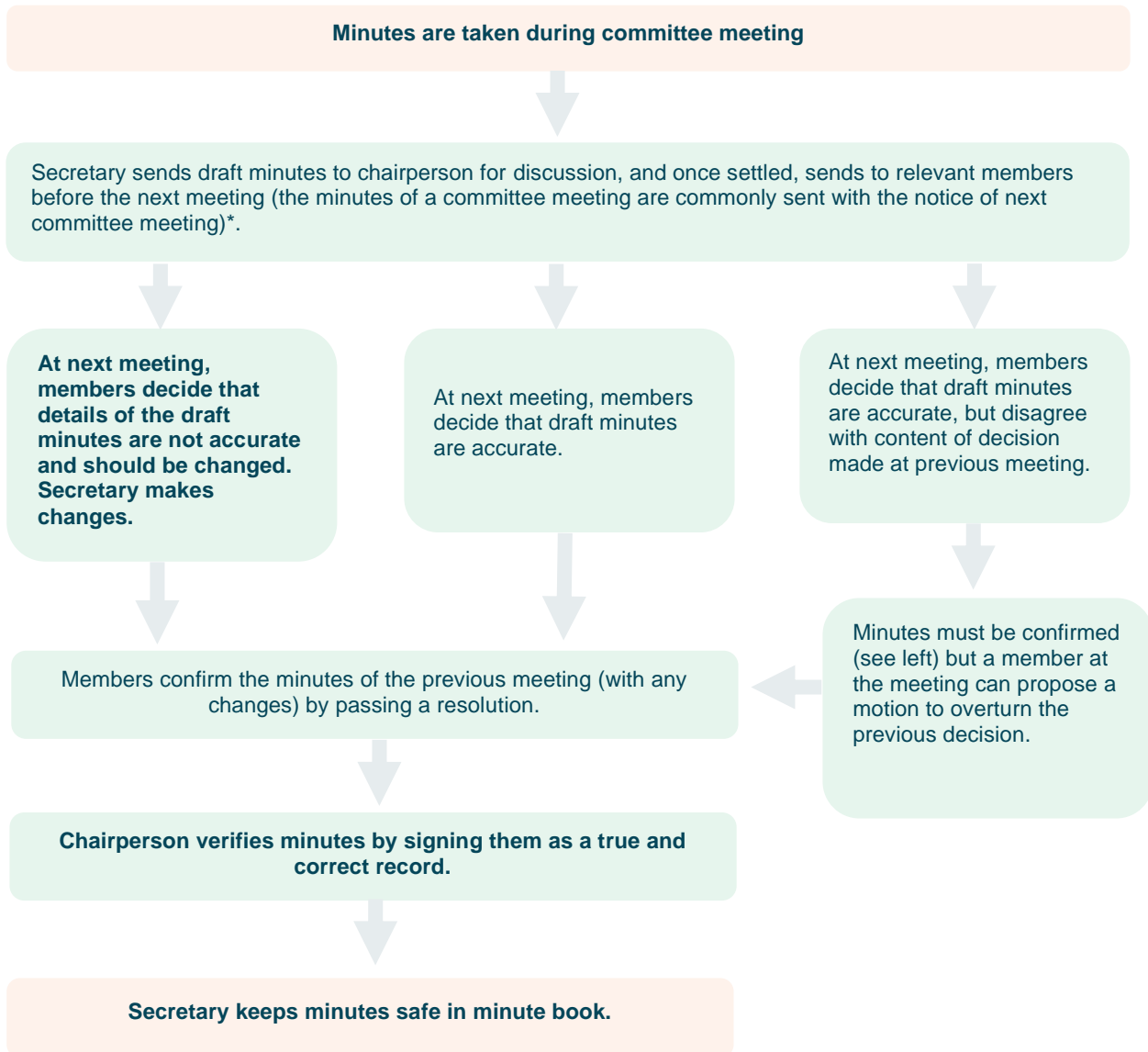


Tool 27: Checklist for content of minutes in a committee meeting

It's good practice to include the following in the minutes of a meeting:

Order	Description	Done
1	Name of your organisation and heading, ie. 'Committee Meeting'	<input type="checkbox"/>
2	Date, place and opening time	<input type="checkbox"/>
3	Name of chairperson	<input type="checkbox"/>
4	Names of office holders present and other people present, if relevant, such as observers (or reference to separate attendance register)	<input type="checkbox"/>
5	Names of those people who have sent apologies (for not attending)	<input type="checkbox"/>
6	Confirmation of previous minutes	<input type="checkbox"/>
7	Record of motions, resolutions and amendments	<input type="checkbox"/>
8	Names of the people who move and second motions	<input type="checkbox"/>
9	Short summaries of the debates on motions	<input type="checkbox"/>
10	The method of voting on motions etc. (for example, show of hands, count) and the numbers of votes for, against and abstaining	<input type="checkbox"/>
11	Results of voting (for example, passed, rejected or adjourned, etc.)	<input type="checkbox"/>
12	Titles (and any relevant details) of documents or reports tabled	<input type="checkbox"/>
13	(If relevant) cross references to previous minutes or policies of the organisation	<input type="checkbox"/>
14	Committee minutes should approve or ratify all the organisation's expenditure	<input type="checkbox"/>
15	Details of next meeting	<input type="checkbox"/>
16	Closing time	<input type="checkbox"/>
17	List of tasks arising from the minutes and name of person responsible for each	<input type="checkbox"/>
18	After minutes have been confirmed at the next meeting, signature of chairperson	<input type="checkbox"/>

Tool 28: Flowchart for confirming and verifying minutes in a committee meeting



***Note:** If minutes were not sent out before the next meeting, allow time for people to read them or the secretary should read them aloud at the meeting.

Tool 29: Flowchart for preparing and lodging an annual statement with CAV (where required)

Organisation's financial statement is prepared (and reviewed or audited, where relevant) before AGM.

1. The financial statement submitted to members at the AGM must include details of:
 - the organisation's income and expenditure during its last financial year (this is called a 'profit and loss' statement)
 - the organisation's assets and liabilities at the end of its last financial year (this is called a 'balance sheet'), and
 - any mortgages, charges and securities affecting any of the organisation's property at the end of its last financial year
2. If the organisation was trustee of any trust during its last financial year, for each trust:
 - the income and expenditure of the trust during that period
 - the assets and liabilities of the trust during that period
 - any mortgages, charges and securities affecting any of the property of the trust at the end of that period, and
 - any trust held on behalf of the organisation by another person or body in which funds or assets of the organisation are placed
3. The financial statement must be certified by two members of the committee.

Financial statement (and, where relevant, the reviewer's or auditor's report) is submitted to members at the annual general meeting.

1. Members should be given an opportunity to consider the financial statement and ask questions at the meeting. Ideally, the meeting passes a resolution approving the financial statement (or, approves it with certain changes made) and authorising the secretary to submit the annual statement to CAV.
2. At the end of the AGM, or as soon as possible afterwards, a member of the management committee signs a document certifying that:
 - they attended the AGM, and
 - the financial statement was submitted to the members at the meeting

See sections 94(3), 97(3) & 100(3) of the AIR Act.

Continued on next page



Secretary completes CAV annual statement form and collects documents to submit with the form.

1. Every year, if the organisation is required*, the secretary must file an annual statement with CAV. This is done on line. CAV will email the organisation's secretary a notice to lodge the annual statement. The email will include a link to the [myCAV sign in page](#). Once your organisation has open-ended its myCAV account page it will see its incorporated association's name, and below this it should see 'Annual statement [year] available to lodge' and 'Lodge'. Click 'Lodge'. This will open the annual statement form. The form should take about 5 minutes to complete.
2. When the secretary lodges the annual statement they will need required documents as electronic files to upload to the annual statement form - these are the same documents presented to members at the annual general meeting as set out below. Fees must also be paid.
 - For tier 1 associations: no documents required (but you will still need to lodge the annual statement), and the fee is \$47.70 at 3/2024)
 - For tier 2 associations: reviewed accounts for both the association and any trusts it administers and a signed and dated independent report of the review of financial statements (the fee is \$95.40 on 3/2024), and
 - For tier 3 associations: audited accounts for both the association and any trusts it administers a signed and dated independent audit report and the fee is \$190.80 at 3/2024)

*If your association is also a charity registered with the Australian Charities and Not-for-profits Commission (ACNC), for any financial year of the association that ends on or after 30 June 2018, you will no longer need to lodge the annual statement with CAV and pay an annual fee.

Secretary lodges annual statement form with CAV within required time period.

1. Secretary lodges statement with CAV within 1 month after AGM.
2. Annual statements can be lodged with CAV online (as above).
3. The secretary can apply for an extension of time by either:
 - downloading the 'Application for Extension of Time' form from CAV's website, completing it, and delivering, posting, faxing or emailing it (PDF format) to CAV, or
 - applying for an extension of time

When applying for an extension of time, your organisation must pay the prescribed fee. Note that at 12/2021, there is no fee until further notice. See section 104(1) of the AIR Act.

Organisation keeps documents for at least seven years.

The organisation must keep the original financial statement, the management committee member's certification, and the originals of any documents submitted to CAV (for example, audited accounts) for at least seven years. See sections 105 and 201 of the AIR Act.

